

City of Los Angeles  
Adaptive  
Reuse  
Program

- Creates new housing opportunities
- Revitalizes neighborhoods
- Preserves historic architecture
- Encourages community development
- Stimulates economic investment
- Facilitates mixed-use

Second Edition  
February 2006





We are pleased to provide you with the development tools and incentives outlined in this Adaptive Reuse Handbook.

Los Angeles is a city of innovation and reinvention, and no city policy embodies those principles more than the Adaptive Reuse Ordinance. The Adaptive Reuse Ordinance allows for the conversion of commercial buildings to new uses including apartments, condos, live/work lofts, retail and hotels.

When buildings are brought back to life through adaptive reuse, they revitalize neighborhoods by preserving our historic architecture, creating new housing and mixed-use opportunities, and increasing public safety. Adaptive reuse enhances economic growth in urban and commercial cores.

The Adaptive Reuse Ordinance originally focused on Downtown, and the results have been truly dramatic. That success led us to expand adaptive reuse citywide, and it's helping revitalize neighborhoods across the city.

The Adaptive Reuse Team helps projects navigate through the permitting and development process as well as qualify for tax credits and other financial incentives. Please do not hesitate to contact them with any questions you may have or to receive any help that you need.

###

# **ACKNOWLEDGEMENTS**

On behalf of the Mayor's Office of Housing and Economic Development, we wish to thank the following people whose work has been instrumental in the creation of this sourcebook:

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**Hamid Behdad, P.E.**  
City of Los Angeles  
Mayor's Office of Housing and Economic Development

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# Introduction

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Introduction

## **INTRODUCTION**

This handbook assembles in one location the regulations the City of Los Angeles has adopted to encourage “adaptive reuse”—the conversion of existing buildings to new residential uses, including apartments, condos, live/work units, and hotels.

The City’s Adaptive Reuse Program works by streamlining the process developers must follow to get their projects approved, resulting in substantial time saving. The Program’s first component, a set of land use ordinances, relaxes parking, density, and other typical zoning requirements. Through fire and life safety measures, the Program’s second component provides flexibility in the approval and permitting process.

Since the initial Adaptive Reuse Ordinance and fire and life safety measures went into effect in 1999, over 6,500 units have been completed, or are currently under construction. An additional 4,000 units are in the development pipeline. Based on many successful downtown projects, in 2003 the City expanded the program to cover parts of Hollywood, Mid-Wilshire, Koreatown, Chinatown, Lincoln Heights and Central Avenue. A Zoning Administrator process was also established to enable case-by-case review of adaptive reuse projects citywide. In response to various questions raised by the development community, several clarifying interpretations were also issued, and the fire and life safety measures were updated.

This handbook is organized into three parts:

- The Program Summary highlights the Adaptive Reuse Program.
- The Planning and Land Use section answers frequently asked questions. It includes an adaptive reuse projects filing guide and:
  - Maps of all designated incentive areas;
  - Land use ordinances adopted by the City (excerpts from the Los Angeles Municipal Code and a specific plan ordinance); and
  - Interpretations issued by the Chief Zoning Administrator and the Director of Planning. These interpretations clarify key parts of the land use ordinances.
- The Fire and Life Safety section also answers frequently asked questions. It includes permitting guidelines and:
  - California Health and Safety Code Section 17958.11, which allows cities and counties to adopt alternative building standards for the conversion of commercial or industrial buildings to Joint Living and Work Quarters; and
  - Division 85 of the Los Angeles Building Code, which allows implementation of Section 17958.11 at the local level.

The Adaptive Reuse Program is an essential element in the City’s strategy to revitalize communities and provide needed housing. We hope this handbook helps guide your project at every stage of the development process, from planning and permitting, through construction and inspection.

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# Adaptive Reuse Program Summary

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Adaptive Reuse  
Program Summary

# Adaptive Reuse Program Summary

“Adaptive reuse” means adapting an existing economically obsolete building for a new more productive purpose. The changes are substantial, physical alterations that modify the building’s original, intended use. For the City of Los Angeles Adaptive Reuse Program, an adaptive reuse project means converting an existing building to new apartments, condos, live/work spaces, or hotel rooms.

## Incentive Areas:

The City of Los Angeles has designated the following as adaptive reuse incentive areas:

Downtown Los Angeles (Central City community plan area and the Figueroa Corridor economic development strategy area)

Hollywood redevelopment project area

Wilshire Center/Koreatown redevelopment project area (certain portions only)

Lincoln Heights and Chinatown

Central Avenue (between Vernon Avenue and the Santa Monica Freeway)

## Standards:

**Apartments, Condos and Live/Work Spaces** The minimum size for each apartment, condo, and live/work space is 450 square feet. The minimum average size for all apartments, condos and live/work spaces in a single building, or project, is 750 square feet.

**Hotel Rooms** Each hotel room must include a toilet and bathing facilities. There is no required minimum size or minimum average size for hotel rooms.

## Program Incentives:

**Density** Underlying density restrictions are waived. There is no limit on the number of apartments, condos, live/work spaces or hotel rooms permitted if the project complies with the standards specified above.

**Exceptions** When an existing building is converted to an adaptive reuse project, non-conforming floor area, setbacks and height are “grandfathered in” which means a variance is not required.

**Mezzanines** Mezzanine spaces may be added, so long as they do not exceed one-third the size of the floor below and comply with the Code.

**Loading Space** Not required.

**Parking** No new parking spaces are required. However, existing parking spaces must be maintained, but may be used for any on-site or off-site use.

**Process:**

**“By-Right” Entitlement** If all of the following apply to your project, then you are automatically entitled to all program incentives:

- Rental units
- Inside a designated incentive area
- Commercial zoning or R5 zoning (high density residential)
- Building constructed before July 1, 1974

If so, you need only apply for a building permit with the Department of Building and Safety and comply with the program’s construction guidelines. A public hearing will not be required.

**Discretionary Review** If any of the following apply to your project, then you must submit an application to the City Planning Department:

- Condominium
- Outside a designated incentive area
- Industrial zoning
- Building constructed on or after July 1, 1974

A City Planning Department official will review your project and either grant, modify, or deny the program’s incentives. If your project is a condominium, the Advisory Agency will review your project. Otherwise, a Zoning Administrator will review your project. A public hearing may be held. If your project has industrial zoning and is located outside an incentive area, then you are limited to Artist-In-Residence live/work spaces; please refer to the Los Angeles Zoning Code for further information.

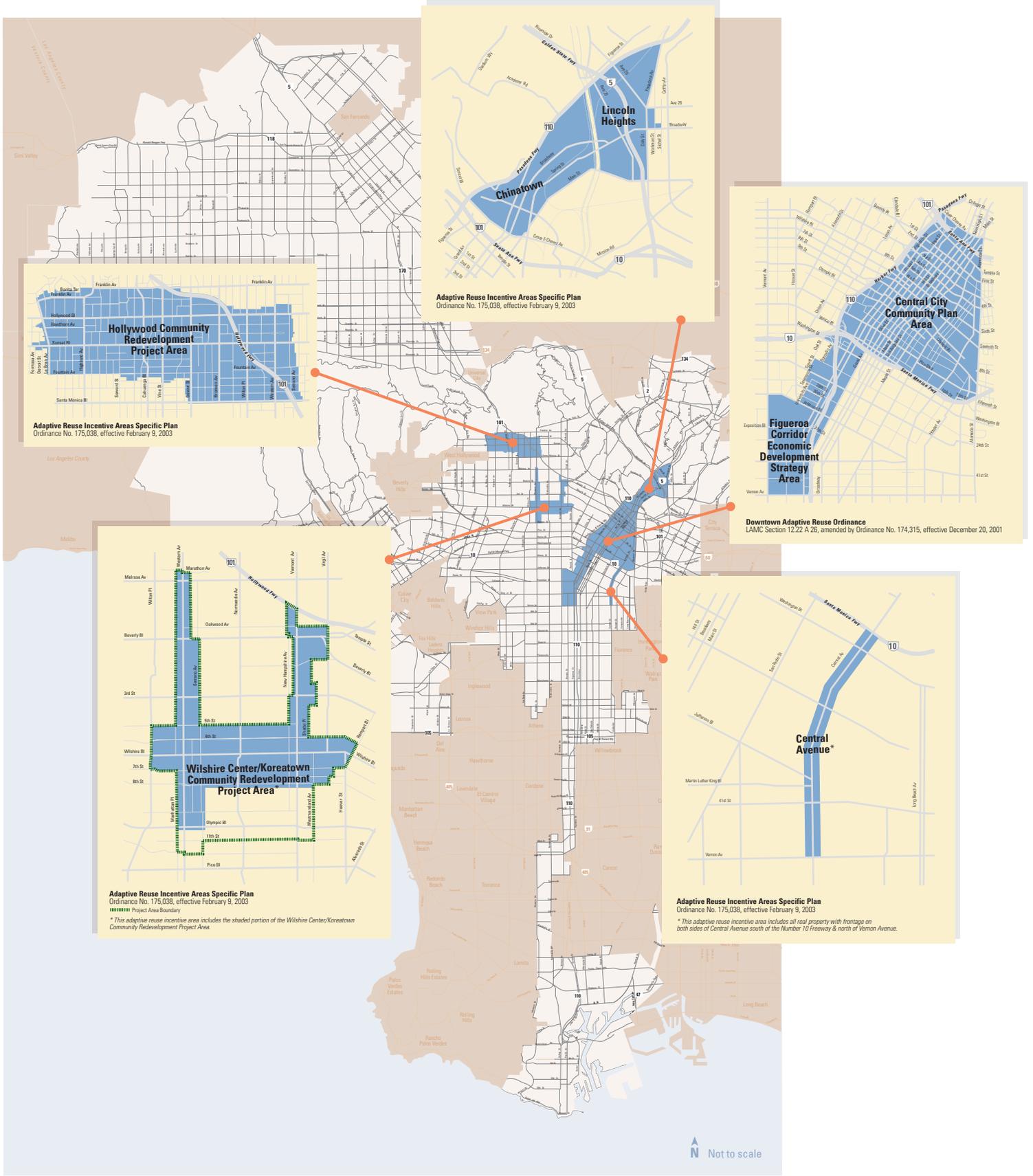
**California Environmental Quality Act (CEQA):**

If your project requires discretionary review, then environmental clearance is required. Any project that involves the adaptive reuse of designated historically significant buildings, even if “by-right”, requires environmental clearance concerning the impact on historic features. If your project is “by-right”, and does not involve the adaptive reuse of historically significant buildings, then environmental clearance is not required.

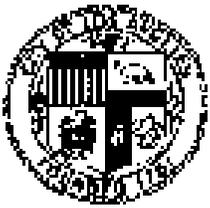
**Division 85:**

Division 85 of the Los Angeles Building Code provides your project with flexibility in meeting the following requirements:

- Building, Mechanical and Electrical code requirements
- Disabled access compliance
- Fire life safety regulations
- Seismic (Structural) retrofit



# Adaptive Reuse Incentive Areas In the City of Los Angeles



## Division of Land

City Hall • 200 N. Spring Street, Room 763, Los Angeles, CA 90012



April 12, 2004

TO: All Public Counters  
Division Managers

FROM: Emily Caber-Luddy  
Deputy Advisory Agency

SUBJECT: CERTAIN CONDOMINIUM ADAPTIVE RE-USE PROJECTS MAY BE EXEMPT FROM THE PROVISIONS OF CEQA

The purpose of the Adaptive Re-Use Ordinance(s) (ARO) is to facilitate conversion of older, economically distressed or historically significant buildings from commercial office space into new residential dwelling units. When a subdivider is filing for a condominium project under ARO, certain projects may be issued a Categorical Exemption under the City CEQA Guidelines, Article III, Sec. 1, Class 1, Category 1, which apply to projects that consist of existing facilities where "interior or exterior alterations involving remodeling or minor construction where there will be negligible or no expansion of use."

To qualify for this Cat. Exemption there should be no new square footage created beyond that which would result from the removal of interior walls.

ONLY ARO projects located in C and R5 zones 1) within the boundaries of the Adaptive Reuse Specific Plan Incentive Areas (Chinatown and Lincoln Heights; the Hollywood Community Redevelopment Project Area, the Wilshire/Koreatown Community Redevelopment Project Area; and Central Avenue - all as defined in Ordinance No. 175, 03B) OR 2) within the boundaries of the Downtown Project Area (described in Section 12.22 A 26 (g) of the Municipal Code) may be issued this Categorical Exemption.

The Exemption does not apply to 1) any adaptive reuse project that will require a permit by a Zoning Administrator pursuant to Section 12.24 X 1 of the Code.

EGJ :jh

cc: Division of Land and Environmental Staff  
Engineers, Environmental Preparers

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Planning and  
Land Use

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Planning and  
Land Use

**FREQUENTLY ASKED QUESTIONS**

**City of Los Angeles Adaptive Reuse Zoning Incentives and Regulations**

**What is an adaptive reuse project?**

**Must I convert an entire building?**

**What is a live/work unit?**

**Which buildings are eligible?**

**What is the difference between the City’s adaptive reuse regulations inside and outside downtown?**

**Where do I file my application?**

**What zoning incentives are available?**

**What are the City’s adaptive reuse standards?**

**Are adaptive reuse projects eligible for an affordable housing density bonus?**

**Are adaptive reuse projects subject to the California Environmental Quality Act (CEQA)?**

**What is an adaptive reuse project?**

An adaptive reuse project is the conversion of an eligible building to one or any combination of the following new residential uses:

- Dwelling units (apartments or condos),
- Joint living and work quarters (live/work units), or
- Guest rooms (in hotels or motels).

**Must I convert an entire building?**

NO. You may convert all or any portion of an eligible building to an adaptive reuse project. The choice is yours. No minimum number of units is required.

**What is a live/work unit?**

A live/work unit is a combined living and work unit that includes a kitchen and a bathroom. The residential portion of the unit, including the sleeping area, kitchen, bathroom, and closet areas, occupies no more than 33 percent of the total floor area, and the living space is not separated from the work space. Living and work spaces which are independently accessible from one another shall not be considered joint living and work quarters but rather a separate dwelling unit and a separate commercial work space.

**Which buildings are eligible?**

Eligible buildings are buildings constructed prior to July 1, 1974. A building constructed on or after July 1, 1974 may also be eligible, but only if the building is at least five years

old, and a Zoning Administrator determines that the building is no longer economically viable in its current use.

Historically significant buildings are always eligible buildings. To be considered historically significant, a building must be listed on the National Register of Historic Places, the California Register of Historical Resources, or the City of Los Angeles List of Historic-Cultural Monuments. Contributing buildings in National Register Historic Districts or contributing structures in locally designated Historic Preservation Overlay Zones are also eligible buildings.

### **What is the difference between the City's adaptive reuse regulations inside and outside downtown?**

The regulations are the same, except for one main difference. Inside the downtown incentive area, residential buildings that meet the criteria specified above are eligible buildings. Outside of downtown, residential buildings are only eligible if "all the dwelling units, guest rooms or joint living and work quarters...were completely and continuously unoccupied from March 1, 2002 through and including the date an application for an Adaptive Reuse Project is filed..."

*(Reference: Section 4, Adaptive Reuse Incentive Areas Specific Plan; and Section 12.24-X, 1(a), Citywide Adaptive Reuse Ordinance.)*

### **Where do I file my application?**

The answer depends on the location, zone, or age of the building you wish to convert. If your project is permitted by-right, file your application with the Department of Building and Safety. If your project requires discretionary review, file your application with the Department of City Planning. Consult the Adaptive Reuse Projects Applications Filing Guide to determine which.

"By-right" means you are entitled to develop your project without special City review. However, you must comply with all other applicable City standards and building permit requirements.

"Discretionary review" for adaptive reuse projects means that a Zoning Administrator may either approve, approve with conditions, or deny your application. In some cases, the Zoning Administrator will conduct a public hearing.

Condominium applications should be filed with the Department of City Planning's Deputy Advisory Agency, Division of Land. The Deputy Advisory Agency may approve your tract or parcel map, and also act as the Zoning Administrator on your application and grant all related adaptive reuse entitlements and incentives.

### **What zoning incentives are available?**

By-right projects are entitled to receive the zoning incentives listed below without special City review. For projects that require discretionary review, the Zoning Administrator or Deputy Advisory Agency may either approve, approve with conditions, or deny these incentives, depending on the circumstances of the case.

**Parking:** No new parking spaces are required, but all existing on-site spaces must be maintained. However, this existing parking may be used for any on-site or off-site use. For example, you may reserve the parking exclusively for your residential tenants, or you may turn it into public parking. The choice is yours. City review and approval is not required.

**Exceptions:** An eligible building's existing floor area, lot line setbacks, and heights that do not conform to the regulations triggered by the conversion to an adaptive reuse project are "grandfathered in." City review and approval is not required.

**Mezzanines:** New construction to accommodate mezzanine level space in an existing story is permitted. The floor area of the new mezzanine level may not exceed 33 percent of the floor area of the room or space below.

**Loading space:** If one does not exist, then it is not required.

**Density:** Lot area standards are waived. There is no limit on the number of apartments, live/work units, or guest rooms permitted in an adaptive reuse project, so long as no new floor area is added, and you comply with the minimum unit size standards described below.

### **What are the City's adaptive reuse standards?**

The minimum size for all new dwelling units or live/work units is 450 square feet. The minimum average size for all of the units in an adaptive reuse project is 750 square feet. However, if you do not need the density incentive, then these standards do not apply.

For example, let's say your project's zoning allows 75 units, but only 50 units can reasonably be accommodated in the building you wish to convert. Again, because you do not need the density incentive, the unit size standards do not apply. On the other hand, let's say your project's zoning only allows 30 units, but the building you wish to convert is large enough to accommodate 55 units. You need the density incentive to convert the whole building. In that case, you must comply with the unit size standards. These unit size standards do not apply to guest rooms. However, each guest room must include a toilet and bathing facilities.

**Are adaptive reuse projects eligible for an affordable housing density bonus?**

Yes. If you do not wish to use the adaptive reuse density incentive, then you may use an affordable housing density bonus pursuant to state law and City regulations.

**Are adaptive reuse projects subject to the California Environmental Quality Act (CEQA)?**

Adaptive reuse projects permitted “by-right” do NOT require environmental clearance, and may be issued permits by the Department of Building and Safety. Projects subject to discretionary review DO require environmental clearance, in which case the Department of City Planning is the lead agency.

Projects in historically significant buildings, even if permitted “by-right”, also require environmental clearance. For projects in redevelopment areas, the Community Redevelopment Agency is the lead agency. For projects outside redevelopment areas, the Department of City Planning is the lead agency.

## ADAPTIVE REUSE PROJECTS FILING GUIDE

Zone and Age of Building <sup>1</sup>	Downtown Incentive Area	Specific Plan Incentive Areas	All Other Locations <sup>2</sup>
<b>CR, C1, C1.5, C2, C4, C5, CM and R5 zones</b>	File directly with Building and Safety. Your project is permitted by-right pursuant to LAMC Sec. 12.22-A, 26. A. A Zoning Administrator's Determination is not required.	File directly with Building and Safety. Your project is permitted by-right pursuant to the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038. A Zoning Administrator's Determination is not required.	File with City Planning pursuant to LAMC Sec. 12.24-X, 1. A Zoning Administrator's Determination is required.
<b>Buildings constructed before July 1, 1974</b>	File directly with Building and Safety. Your project is permitted by-right pursuant to LAMC Sec. 12.24-X, 1. A Zoning Administrator's Determination is required.	File with City Planning pursuant to the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038. A Zoning Administrator's Determination is required.	File with City Planning pursuant to LAMC Sec. 12.24-X, 1. A Zoning Administrator's Determination is required.
<b>Buildings constructed on or after July 1, 1974 (must be at least five years old)</b>	File with City Planning pursuant to LAMC Sec. 12.24-X, 1. A Zoning Administrator's Determination is required.	File with City Planning pursuant to the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038. A Zoning Administrator's Determination is required.	File with City Planning pursuant to LAMC Sec. 12.24-X, 13. A Zoning Administrator's Determination is required.
<b>MR1, MR2, M1, M2 and M3 zones</b>	File with City Planning pursuant to LAMC Sec. 12.24-X, 1. A Zoning Administrator's Determination is required.	File with City Planning pursuant to the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038. A Zoning Administrator's Determination is required.	File with City Planning pursuant to LAMC Sec. 12.24-X, 13. A Zoning Administrator's Determination is required.

<sup>1</sup> Condominium applications should be filed with the City Planning Department's Deputy Advisory Agency. The Deputy Advisory Agency may approve your tract or parcel map, and also act as the Zoning Administrator on your application and grant all related adaptive reuse incentives. Section 12.95.3-F, 1(h) provides a parking incentive for condominiums in the Downtown Project Area.

<sup>2</sup> If your project is in the C1, C1.5, C2, C4, C5 or CM zones, review LAMC Sec. 12.13-A, 2 (a) (27) before filing with the City Planning Department. Your project may be permitted by-right. LAMC Sec. 12.13-A, 2 (a) (27) provides parking and yard incentives for adaptive reuse projects. If no other incentives are needed, then you may file directly with the Building and Safety Department for building permits. A Zoning Administrator's Determination is not required.

## **Adaptive Reuse Ordinances (ARO)**

- **Ordinance 172571** (*Effective June 3, 1999*) establishes Adaptive Reuse in Downtown area.
- **Ordinance 172572** (*Effective June 3, 1999*) enters the definition of “joint living and work quarters” into the LA Zoning Code, as well as related professions.
- **Ordinance 174315** (*Effective December 20, 2001*) revises the Ordinance 172571 to enhance the “Definition of Adaptive Reuse Project”, and make other modifications/clarifications.
- **Ordinance 175038** (*Effective February 9, 2003*) expands “a slightly modified version” of the Adaptive Reuse Ordinance called “ Adaptive Reuse Incentive Areas Specific Plan” to Chinatown, Lincoln Heights, the Hollywood Community Redevelopment Project Area, certain portions of the Wilshire Center/Koreatown Community Redevelopment Project Area, and Central Avenue South of Freeway Number 10 and north of Vernon Avenue.
- **Ordinance 175587** (*Effective December 1, 2003*) corrects/modifies the definition of “Non-Residential Use” in Ordinance 175038.
- **Ordinance 175588** (*Effective December 1, 2003*) permits Adaptive Reuse Projects in the C and R5 Zones throughout the City, with Zoning Administrator’s approval.
- **Ordinance 176673** (*Effective July 6, 2005*) establishes the Fire Life Safety provisions of the Adaptive Reuse projects, as well as revising such provisions for the Artist-In-Residence units, in the Los Angeles Building Code.
- **ZA 2004-7710** (*Dec. 21, 2004*), **DIR 2004-7708** (*Dec. 21, 2004*), **ZA 2004-6824** (*Nov. 5, 2004*), and **ZA 2003-2347** (*May 2, 2003*).

## **DOWNTOWN INCENTIVE AREA**

### **Map of Downtown Project Area**

### **Excerpts from Los Angeles Municipal Code**

Section 12.22-A, 26  
Section 12.95.3-F, 1 (h)  
Section 12.24-X, 1

### **Zoning Administrator Interpretations**

Case No. ZA 2003-2347 (ZAI)  
Case No. ZA 2 004-7710 (ZAI)



**LOS ANGELES MUNICIPAL CODE  
SECTION 12.22-A, 26**

**Adopted by Ordinance No. 172,571, effective June 3, 1999  
Amended by Ordinance No. 174,315, effective December 20, 2001  
Amended by Ordinance No. 175,588, effective December 1, 2003**

**Clarified by the following Zoning Administrator's Interpretations:  
Case No. ZA 2003-2347 (ZAI), dated May 2, 2003  
Case No. ZA 2004-7710 (ZAI), dated December 21,**

**SUMMARY**

Section 12.22-A, 26 provides incentives for adaptive reuse projects in the Downtown Incentive Area. It includes the following main provisions:

- Rental adaptive reuse projects are permitted by-right in the "C" commercial and "R5" multi-family residential zones in buildings constructed prior to July 1, 1974.
- Eligible residential buildings may be converted to adaptive reuse projects.
- The incentives for rental and condominium adaptive reuse projects are the same. However, condominium adaptive reuse projects require subdivision approval. Applicants planning condominium adaptive reuse projects are advised to first file with the Deputy Advisory Agency. The Deputy Advisory Agency is also a Zoning Administrator who has the authority to grant all of the incentives available through the Downtown Adaptive Reuse Ordinance to "for sale" adaptive reuse projects.

**TEXT OF EXCERPT FROM LAMC**

**26. Downtown Adaptive Reuse Projects.**

**(a) Purpose.** The purpose of this Subdivision is to revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve Downtown's architectural and cultural past and encourage the development of a live/work and residential community Downtown, thus creating a more balanced ratio between housing and jobs in the region's primary employment center. This revitalization will also facilitate the development of a "24-hour city" and encourage mixed commercial and residential uses in order to improve air quality and reduce vehicle trips and vehicle miles traveled by locating residents, jobs, hotels and transit services near each other.

**(b) Application.** If the provisions of Subparagraph (2) of Paragraph (h) and of Subparagraphs (1), (2) or (3) of Paragraph (j) of this subdivision conflict with those of any specific plan, supplemental use district, “Q” condition, “D” limitation, or citywide regulation, any of which were adopted or imposed by City action prior to the effective date of this ordinance, then this Subdivision shall prevail.

**(c) Definition of Adaptive Reuse Project.** Notwithstanding any other provisions of this chapter to the contrary, for the purposes of this subdivision, an Adaptive Reuse Project is any change of use to dwelling units, guest rooms, or joint living and work quarters in all or any portion of any eligible building.

**(d) Eligible Buildings.** The provisions of this subdivision shall apply to Adaptive Reuse Projects in all or any portion of the following buildings in the CR, C1, C1.5, C2, C4, C5, CM and R5 Zones in the Downtown Project Area:

**(1)** Buildings constructed in accordance with building and zoning codes in effect prior to July 1, 1974. A Certificate of Occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the date of construction.

**(2)** Buildings constructed in accordance with building and zoning codes in effect on or after July 1, 1974, if:

**(i)** Five years have elapsed since the date of issuance of final Certificates of Occupancy; and

**(ii)** A Zoning Administrator finds that the building is no longer economically viable in its current uses or uses, pursuant to Section 12.24 X 1(c).

**(3)** Buildings designated on the National Register of Historic Places, the California Register of Historical Resources, or the City of Los Angeles List of Historic-Cultural Monuments. Contributing Buildings in National Register Historic Districts or Contributing Structures in Historic Preservation Overlay Zones (HPOZ) established pursuant to Section 12.20.3 of this Code are also eligible buildings.

**(e) M Zones.** The Zoning Administrator may, upon application, permit Adaptive Reuse Projects in all or any portion of buildings in the MR1, MR2, M1, M2 and M3 zones in the Downtown Project Area, pursuant to Section 12.24 X 1(b).

**(f) Floor Area Averaging.** The Zoning Administrator may, upon application, permit floor area averaging in unified Adaptive Reuse Projects, pursuant to Section 12.24 X 1(d).

**(g) Downtown Project Area.** The Downtown Project Area includes the following areas:

**(1)** The Central City Community Plan Area as shown on the General Plan of the City of Los Angeles; and

**(2)** All that real property in the City of Los Angeles, described by the following boundary lines: Bounded northerly by the centerline of Freeway Number 10 (commonly called the Santa Monica Freeway); bounded southerly by the centerline of Vernon Avenue; bounded easterly and southeasterly by the following centerline courses: beginning at the intersection of the Santa Monica Freeway and Grand Avenue, then southerly along Grand Avenue to the most easterly line of Freeway Number 110 (commonly called the Harbor Freeway), then southerly along that right of way to the centerline of Martin Luther King, Jr. Boulevard, then easterly along Martin Luther King, Jr. Boulevard to the centerline of Grand Avenue, then southerly along Grand Avenue to the centerline of Vernon Avenue. Bounded westerly and northwesterly by the following centerline courses: beginning at the intersection of Vermont Avenue and Vernon Avenue, then northerly along Vermont Avenue to Jefferson Boulevard, then easterly along Jefferson Boulevard to University Avenue, then northerly along University Avenue to 28th Street, then westerly along 28th Street to Severance Street, then northerly along Severance Street to Adams Boulevard, then westerly along Adams Boulevard to Scarff Street, then northerly along Scarff Street to 23rd Street, then southerly along 23rd Street to Bonsallo Avenue, then northerly along Bonsallo Avenue to Washington Boulevard, then westerly along Washington Boulevard to Oak Street, then northerly along Oak Street and its northerly prolongation to the Santa Monica Freeway.

**(h) Incentives.** Notwithstanding any other provisions of this chapter to the contrary, Adaptive Reuse Projects shall be entitled to the incentives set forth below. Except for the provision concerning mezzanines set forth in Subparagraph (1) below, these incentives shall not apply to any new floor area that is added to an Adaptive Reuse Project.

**(1) Mezzanines.** Loft spaces in joint living and work quarters, dwelling units and guest rooms which do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Paragraph (i) of this subdivision.

**(2) Density.** Dwelling units, joint living and work quarters and guest rooms shall not be subject to the lot area requirements of the zone or height district.

**(3) Off-Street Automobile Parking.** The required number of parking spaces shall be the same as the number of spaces that existed on the site on June 3, 1999, and shall be maintained and not reduced. Adaptive Reuse Projects shall otherwise be exempt from the provisions of Section 12.21 A 4(m) of this Code.

**(4) Mini-Shopping Center and Commercial Corner Development Regulations.** Adaptive Reuse Projects shall be exempt from the mini-shopping center and commercial corner development regulations set forth in Section 12.22 A 23.

**(5) Site Plan Review.** Adaptive Reuse Projects shall be exempt from the requirements for Site Plan Review set forth in Section 16.05.

**(6) Loading Space.** Where an existing loading space is provided, the provisions of Section 12.21 C 6(h) shall apply. If no loading spaces exist, then a loading space shall not be required in conjunction with the development of an Adaptive Reuse Project.

**(i) Standards.** Adaptive Reuse Projects permitted pursuant to this subdivision shall be developed in compliance with the following standards:

**(1) Dwelling Units and Joint Living and Work Quarters.** The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet. Floor area shall not include hallways or other common areas, or rooftops, balconies, terraces, fire escapes, or other projections or surfaces exterior to the walls of the building. The floor area of both the living space and the work space shall be combined to determine the size of joint living and work quarters.

The average floor area, as defined above, of all the dwelling units and joint living and work quarters in the building, including those that existed prior to the effective date of this ordinance, shall be at least 750 square feet. That minimum average size shall be maintained and not reduced.

**(2) Guest Rooms.** Guest rooms shall include a toilet and bathing facilities.

**(j) Exceptions.** Notwithstanding the nonconforming provisions of Section 12.23, the following exceptions shall apply to the buildings in which Adaptive Reuse Projects are located. These exceptions shall also apply to any building in which new floor area or height was added or observed yards changed on or after July 1, 1974, as evidenced by a valid Certificate of Occupancy.

**(1) Floor Area.** Existing floor area which exceeds that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

**(2) Height.** Existing height which exceeds that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

**(3) Yards.** Existing observed yards which do not meet the yards required by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

**(k) Uses.** Notwithstanding the nonconforming provisions of Section 12.23, dwelling units, guest rooms, and joint living and work quarters shall be permitted in Adaptive Reuse Projects, so long as the use is permitted by the underlying zone.

**LOS ANGELES MUNICIPAL CODE  
SECTION 12.95.3-F, 1 (h)**

**Adopted by Ordinance No. 172,571, effective June 3, 1999**

**SUMMARY**

Section 12.95.3-F, 1 (h) establishes a parking incentive for condominium adaptive reuse projects.

**TEXT OF EXCERPT FROM LAMC**

**(h)** Notwithstanding any other provisions of this chapter to the contrary, the required number of parking spaces in Adaptive Reuse Projects in the Downtown Project Area pursuant to Section 12.22-A, 26 shall be the same as the number of spaces that existed on the site as of the effective date of this ordinance (June 3, 1999) and shall be maintained and not reduced. Adaptive Reuse Projects shall be otherwise exempt from the provisions of Section 12.21-A, 4 (m) of this Code.

**LOS ANGELES MUNICIPAL CODE  
SECTION 12.24-X, 1**

**Adopted by Ordinance No. 172,571, effective June 3, 1999  
Amended by Ordinance No. 174,315, effective December 20, 2001  
Amended by Ordinance No. 175,588, effective December 1, 2003**

**Clarified by the following Zoning Administrator's Interpretation:  
Case No. ZA 2004-7710 (ZAI), dated December 21, 2004**

**SUMMARY**

Section 12.24-X, 1 enables a Zoning Administrator to approve adaptive reuse projects, as discussed below. This ordinance does not apply to adaptive reuse projects in any of the areas set forth in the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038.

■ *Inside the Downtown Project Area:*

- Adaptive reuse projects in the "M" manufacturing zones require a Zoning Administrator's review and approval.
- Eligible residential buildings may be converted to adaptive reuse projects.

■ *Outside the Downtown Project Area:*

- Adaptive reuse projects in the "C" commercial and "R5" multi-family residential zones require a Zoning Administrator's review and approval.
- Eligible residential buildings may be converted to adaptive reuse projects, but only if they have been completely and continuously vacant since March 1, 2002.

■ *Inside and Outside the Downtown Project Area:*

- Buildings constructed on or after July 1, 1974, must be at least five years old. A Zoning Administrator must also find that such buildings are no longer economically viable in their current use or uses.
- The incentives for rental and condominium adaptive reuse projects are the same. However, condominium adaptive reuse projects require subdivision approval. Applicants planning condominium adaptive reuse projects are advised to first file with the Deputy Advisory Agency. The Deputy Advisory Agency is also a Zoning Administrator who has the authority to grant all of the incentives available through the Citywide Adaptive Reuse Ordinance to "for sale" adaptive reuse projects.

## TEXT OF EXCERPT FROM LAMC

**1. Adaptive Reuse Projects.** A Zoning Administrator may, upon application, permit Adaptive Reuse Projects pursuant to this subdivision. Except that, the provisions of this subdivision shall not apply to those areas set forth in the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038. Furthermore, the provisions of this subdivision shall not apply to the M zones outside the Downtown Project Area. The boundaries of the Downtown Project Area are described in Section 12.22 A 26 (g) of the Code.

In conformance with Paragraph (b) below, the Zoning Administrator may permit Adaptive Reuse Projects in the M zones inside the Downtown Project Area. Outside the Downtown Project Area, the Zoning Administrator may permit Adaptive Reuse Projects in the C and R5 zones.

In conformance with Paragraph (c) below, the Zoning Administrator may permit Adaptive Reuse Projects in the C and R5 zones in all or any portion of a building constructed on or after July 1, 1974, inside the Downtown Project Area.

In conformance with Paragraph (d) below, the Zoning Administrator may permit floor area averaging in unified Adaptive Reuse Projects in the C, M and R5 zones inside the Downtown Project Area. Outside the Downtown Project Area, the Zoning Administrator may permit this floor area averaging in the C and R5 zones.

**(a) Definitions.** The definition of “Adaptive Reuse Project” set forth in Section 12.22 A 26 (c) of the Code shall apply inside the Downtown Project Area. Outside the Downtown Project Area, the following definitions shall apply:

**Adaptive Reuse Project** is any change of an existing Non- Residential Use to new dwelling units, guest rooms, or joint living and work quarters in all or any portion of any eligible building.

**Non-Residential Use** means any use other than dwelling units, guest rooms, or joint living and work quarters. Except that, if all the dwelling units, guest rooms or joint living and work quarters in an eligible building were completely and continuously unoccupied from March 1, 2002 through and including the date an application for an Adaptive Reuse Project is filed pursuant to this subdivision, then those units, rooms or quarters shall be considered to be a Non-Residential Use.

**(b) C, M and R5 Zones.** The following shall apply to Adaptive Reuse Projects in the MR1, MR2, M1, M2 and M3 zones inside the Downtown Project Area; and to such projects in the CR, C1, C1.5, C2, C4, C5, CM and R5 zones outside the Downtown Project Area:

**(1) Eligible Buildings.** A Zoning Administrator shall only permit Adaptive Reuse Projects in the following buildings:

**(i)** Buildings constructed in accordance with building and zoning codes in effect prior to July 1, 1974. A Certificate of Occupancy,

building permit, or other suitable documentation may be submitted as evidence to verify the date of construction.

(ii) Buildings constructed in accordance with building and zoning codes in effect on or after July 1, 1974, if: five years have elapsed since the date of issuance of final Certificates of Occupancy; and the Zoning Administrator finds that the building is no longer economically viable in its current use or uses.

In making this finding, the Zoning Administrator shall consider the building's past and current vacancy rate, existing and previous uses, and real estate market information. The Zoning Administrator may require the applicant to submit independently verified documentation.

(iii) Buildings designated on the National Register of Historic Places, the California Register of Historical Resources, or the City of Los Angeles List of Historic-Cultural Monuments. Contributing Buildings in National Register Historic Districts or Contributing Structures in Historic Preservation Overlay Zones (HPOZ) established pursuant to Section 12.20.3 of this Code are also eligible buildings.

**(2) Incentives and Exceptions.** The Zoning Administrator may grant, modify or deny some or all of the incentives set forth in Section 12.22 A 26 (h), or some or all of the exceptions set forth in Section 12.22 A 26 (j), to Adaptive Reuse Projects proposed pursuant to this subdivision. Furthermore, the Zoning Administrator shall have the authority to grant any other incentives or exceptions from the Code required to permit Adaptive Reuse Projects proposed pursuant to this subdivision, including but not limited to the authority to permit dwelling units, guest rooms and joint living and work quarters in Adaptive Reuse Projects, notwithstanding the nonconforming provisions of Section 12.23 of the Code.

**(3) Findings and Conditions for the C and R5 Zones.** If the Adaptive Reuse Project is in the CR, C1, C1.5, C2, C4, C5, CM or R5 zones outside the Downtown Project Area, then the Zoning Administrator shall find that the Adaptive Reuse Project complies with the standards for dwelling units, guest rooms and joint living and work quarters set forth in Section 12.22 A 26 (i). Exception: This finding is not required if the Zoning Administrator does not grant the density incentive set forth in Section 12.22 A 26 (h) (2).

Before approving a reduced parking incentive pursuant to Subparagraph (2) above, the Zoning Administrator shall also find that the surrounding area will not be adversely affected by overflow parking or traffic congestion originating or terminating at the site of the Adaptive Reuse Project.

**(4) Findings and Conditions for the M Zones.** If the Adaptive Reuse Project is in the MR1, MR2, M1, M2 or M3 zones inside the Downtown Project Area, then the Zoning Administrator shall:

(i) Require that one or more signs or symbols of a size and design approved by the Fire Department are placed by the applicant at

designated locations on the exterior of each Adaptive Reuse Project to indicate the presence of residential uses;

(ii) Limit the occupations permitted in joint living and work quarters to the following: accountants; architects; artists and artisans; attorneys; computer software and multimedia related professionals; consultants; engineers; fashion, graphic, interior and other designers; insurance, real estate and travel agents; photographers and similar occupations;

(iii) Find that the Adaptive Reuse Project complies with the standards for dwelling units, guest rooms, and joint living and work quarters set forth in Section 12.22 A 26 (i);

(iv) Find that the uses of property surrounding the proposed location of the Adaptive Reuse Project will not be detrimental to the safety and welfare of prospective residents; and

(v) Find that the Adaptive Reuse Project will not displace viable industrial uses.

**(c) Buildings constructed on or after July 1, 1974.** The provisions of Section 12.22 A 26 shall apply to Adaptive Reuse Projects in all or any portion of a building constructed on or after July 1, 1974, in the CR, C1, C1.5, C2, C4, C5, CM, or R5 zones inside the Downtown Project Area if: five years have elapsed since the date of issuance of final Certificates of Occupancy; and a Zoning Administrator finds that the building is no longer economically viable in its current use or uses.

In making this finding, the Zoning Administrator shall consider the building's past and current vacancy rate, existing and previous uses, and real estate market information. The Zoning Administrator may require the applicant to submit independently verified documentation.

**(d) Floor Area Averaging.** The following shall apply to applications to permit floor area averaging in unified Adaptive Reuse Projects in the CR, C1, C1.5, C2, C4, C5, CM, MR1, MR2, M1, M2, M3, or R5 zones inside the Downtown Project Area; and to such applications in the CR, C1, C1.5, C2, C4, C5, CM, or R5 zones outside the Downtown Project Area.

The Zoning Administrator may permit averaging of floor area in unified Adaptive Reuse Projects for purposes of determining compliance with the 750 square foot minimum average unit size standard for dwelling units and joint living and work quarters, as set forth in Section 12.22 A 26 (i). For purposes of this subdivision, a unified Adaptive Reuse Project means an Adaptive Reuse Project composed of two or more buildings, so long as the Project has all of the following characteristics: (a) functional linkages, such as pedestrian or vehicular connections; (a) common architectural and landscape features, which constitute distinctive design elements of the project; and (c) a unified appearance when viewed from adjoining

streets. Unified Adaptive Reuse Projects may include lots that abut or are separated only by an alley or are located across the street from any portion of each other.

Individual buildings may fall below the minimum average unit size standard, so long as the average size of all the dwelling units and joint living and work quarters in the unified Adaptive Reuse Project is at least 750 square feet, and no dwelling unit or joint living and work quarters is less than 450 square feet in area. The Zoning Administrator shall determine whether a Project meets the definition of a unified Adaptive Reuse Project as set forth above. All owners of the property requesting floor area averaging must sign the application. A current title search shall be submitted with the application to insure that all required persons have signed the application.

If the Zoning Administrator approves the floor area averaging, then all owners of the property requesting floor area averaging and all owners of each lot contained in the unified Adaptive Reuse Project shall execute and record an affidavit. A copy of each executed and recorded affidavit shall be filed with the Office of Zoning Administration. Each affidavit shall run with the land, be approved by the Zoning Administrator prior to the issuance of any building permits, and shall guarantee the following: (1) The use of any floor area converted to dwelling units or joint living and work quarters shall be maintained and not changed; and (2) The number of these units or quarters approved by the Zoning Administrator shall not be increased.

**(e) Procedures.** An application for permission pursuant to this subdivision shall follow the procedures for adjustments set forth in Section 12.28 C 1, 2, and 3. However, the Zoning Administrator may waive the public hearing required in that section if the owners of all properties abutting, across the street or alley from, or having a common corner with the building have expressed in writing no objections to the Adaptive Reuse Project.

# CITY OF LOS ANGELES

CALIFORNIA



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MAYOR

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May 2, 2003

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George van Gilluwe (R)  
444 South Flower Street, #1200  
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CASE NO. ZA 2003-2347(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION  
DOWNTOWN PROJECT AREA AS  
DEFINED IN PARAGRAPH (g) OF  
SECTION 12.22-A,26 OF THE LOS  
ANGELES MUNICIPAL CODE

## Department of Building and Safety

The developer of an adaptive reuse project may voluntarily elect to not utilize the density incentive set forth in Section 12.22-A,26(h)(2) of the Los Angeles Municipal Code. This incentive waives compliance with the lot area requirements of the underlying zone or height district. If a developer makes this election, then the adaptive reuse project does not need to be developed in compliance with the unit size and other standards set forth in Section 12.22-A,26(i) of the Code. However, the lot area requirements of the underlying zone or height district and other applicable provisions of the Code shall govern the permitted density in the adaptive reuse project.

Section 12.21-A,2 of the Code provides, in pertinent part, as follows:

### **"2. Other Use and Yard Determinations by the Zoning Administrator.**

The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.



### Background

On June 3, 1999, Ordinance No. 172,571, commonly referred to as the "Downtown Adaptive Reuse Ordinance", went into effect. The ordinance was amended by Ordinance No. 174,315, which went into effect on December 20, 2001.

The purpose of the Downtown Adaptive Reuse Ordinance, as set forth in Paragraph (a) of Section 12.22-A,26 of the Code, is to "revitalize the Greater Downtown Los Angeles area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities."

As noted in the staff report to the City Planning Commission dated May 28, 1998 (CPC-95-0343-CA), "in many cases, existing residential lot area requirements are too restrictive and prevent developers from converting entire existing commercial buildings to residential uses without first obtaining a variance." To remove this impediment to the full conversion of an existing building for residential uses, Subparagraph (2) of Section 12.22-A,26(h) of the Code provides a density incentive that waives the lot area requirements of the underlying zone or height district. Lot area requirements regulate the number of residential units, such as dwelling units, joint living and work quarters, and guest rooms, that are permitted on a lot.

The purpose of the density incentive is to allow for an increase in the number of residential units in excess of what the lot area requirements may allow. The density incentive may only be applied to an eligible building's existing floor area, with the exception of mezzanines. As provided by Subparagraph (1) of Section 12.22-A,26(h) of the Code, loft spaces that do "not exceed more than 33 percent of the floor area of the space below" may be added to residential units.

To compensate for the consequences of waiving the lot area requirements, the Downtown Adaptive Reuse Ordinance establishes a *quid pro quo*. Paragraph (i) of Section 12.22-A,26 of the Code requires adaptive reuse projects to be developed in compliance with three standards. The first standard establishes a minimum unit size for all new dwelling units and joint living and work quarters of at least 450 square feet. The second standard establishes a minimum average unit size for all dwelling units and joint living and work quarters in the building of at least 750 square feet. The third standard requires all guest rooms to include a toilet and bathing facilities. These standards are designed to provide for an appropriate number of new residential units; to encourage the effective revitalization of Downtown Los Angeles by promoting quality development; and to minimize negative impacts on surrounding neighborhoods.

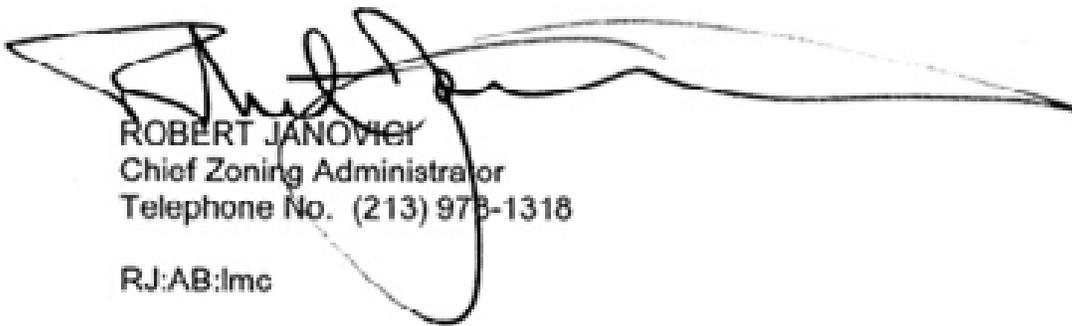
In some cases, the lot size and applicable lot area standards may allow a sufficient number of residential units to enable the full conversion of an existing building without utilizing the Downtown Adaptive Reuse Ordinance's density incentive. Various other Code provisions also provide density incentives that may enable the full conversion of existing buildings to new residential units. For example, Paragraph (a) of Section 12.22-A,18 of the Code allows "any use permitted in the R5 Zone on any lot in the CR, C1, C1.5, C2, C4 or C5 Zones provided that such lot is located within an area designated

on an adopted community plan as 'Regional Center', or 'High Intensity Commercial', or within any redevelopment project area and approved by the City Council within the Central City Community Plan Area. Any combination of R5 uses and the uses permitted in the underlying commercial zone shall be permitted on such lot." Section 12.22-A,25 of the Code grants additional density to qualifying residential projects, including adaptive reuse projects, that include affordable housing units on-site.

The Downtown Adaptive Reuse Ordinance was not intended to mandate the application of the lot area requirements waiver. This density incentive was only included in the ordinance to facilitate the full conversion of an existing building to new residential uses. If the developer of an adaptive reuse project concludes that utilizing the lot area requirements waiver is unnecessary to accomplish the objective of full conversion, then there is no reason to require compliance with the three standards set forth in Paragraph (i) of Section 12.22-A,26 of the Code. These standards were only intended as a *quid pro quo* to offset the impacts of waiving the lot area requirements.

Consequently, I find that a developer may voluntarily elect to not utilize the density incentive set forth in Subparagraph (2) of Section 12.22-A,26(h) of the Code. If a developer makes this election, then the adaptive reuse project does not need to be developed in compliance with the standards set forth in Paragraph (i) of Section 12.22-A,26. However, the lot area requirements of the underlying zone or height district and other applicable provisions of the Code shall govern the permitted density in the adaptive reuse project.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.

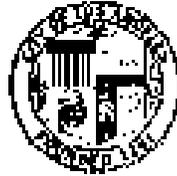


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# CITY OF LOS ANGELES

CALIFORNIA



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LOS ANGELES, CA 90012

December 21, 2004

Interested Parties

CASE NO. ZA 2004-7710(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Department of Building and Safety

Downtown Project Area as Defined in  
Paragraph (g) of Section of Section  
12.22-A, 26 of the Los Angeles  
Municipal Code

Adaptive Reuse Projects Approved  
Pursuant to Section 12.24-X.1 of the  
Los Angeles Municipal Code

This interpretation replaces and supercedes Case No. ZA 2003-5444(ZAI) dated August 11, 2003. In the case of conflict between this interpretation and Case No. ZA 2004-6824 (ZAI) dated November 5, 2004, this interpretation shall govern.

## ADAPTIVE REUSE PROJECT

The definition of "adaptive reuse project" set forth in Paragraph (c) of Section 12.22 A, 26 of the Los Angeles Municipal Code shall include any change of an existing use to new uses that are accessory to dwelling units, guest rooms, or joint living and work quarters. These accessory uses must be:

- (1) Consistent with the definition of 'accessory use' set forth in Section 12.03 of the Code, and
- (2) Permitted by the underlying zone.

## NEW FLOOR AREA

The following actions shall not be considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions and other provisions set forth in Section 12.22-A, 26 of the Code:



- (1) Changing the use of any existing portion of an eligible building that Section 12.03 of the Code does not define as "floor area", to new dwelling units, guest rooms, joint living and work quarters, or accessory uses; and
- (2) Demolishing and removing any interior existing portion of an eligible building for the construction of new dwelling units, guest rooms, joint living and work quarters, or accessory uses. The newly constructed areas shall not exceed the area of the existing portion demolished, and must be located within the same building's existing exterior walls and below the existing roof. However, new rooftop structures may be constructed as discussed below.

The interpretation set forth above shall apply to existing mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or any other existing portion of an eligible building, either above or below the existing roof.

### **NEW ROOFTOP STRUCTURES**

The construction of new structures on the existing roof of an eligible building shall not be considered as adding new floor area that enlarges the building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A, 26 of the Code, subject to the following conditions:

- (1) The new rooftop structures shall not exceed one usable level;
- (2) The new rooftop structures shall not be permitted on any portion of any eligible building that is currently nonconforming as to height. Furthermore, the new rooftop structures shall not cause any portion of any eligible building that is currently conforming as to height to exceed any height limits set forth by the Code, underlying zone, height district, or any other applicable regulation.
- (3) The new rooftop structures shall not cause a net increase in the eligible building's floor area. Any newly created floor area must be offset by an equivalent reduction in existing floor area;
- (4) The new rooftop structures shall be not used for dwelling units, guest rooms, or joint living and work quarters, but must be used solely for accessory uses or open space. Notwithstanding, the existing roof of an eligible building may be used as the top level of a multiple-level dwelling unit, guest room, or joint living and work quarters. However, no complete and separate dwelling units, guest rooms, or joint living and work quarters may be constructed on the existing roof of an eligible building, and
- (5) Except for required stair shafts, any newly created roof areas shall not be used for accessory uses, open space, mechanical rooms, elevator shafts, elevator penthouses, or appurtenances, signs, devices or structures of any kind.

## **OPEN SPACE AREAS**

Balconies, patios, terraces, recreation and fitness rooms, pools, gardens, and other common or private open space areas that are created by reusing existing portions of an eligible building shall not be considered as floor area, or considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A.26 of the Code. Such existing portions may include interior space, lobbies, fire escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or other existing portions of an eligible building, either above or below the existing roof. However, these newly created open space areas may be counted toward the calculation of the 450 square-foot minimum floor area and 750 square-foot minimum average floor area standards for dwelling units and joint living and work quarters set forth in Section 12.22-A.26(i) of the Code.

## **USE OF EXISTING PARKING SPACES**

Section 12.22-A.26(h)(3) of the Code states that parking that existed on the site of the adaptive reuse project on June 3, 1999 "shall be maintained and not reduced". At the building owner's sole discretion, these existing spaces may be used to provide parking for any on-site or off-site use. This interpretation shall not apply to for-sale adaptive reuse projects that the Advisory Agency approves as part of a division of land determination. Instead, the conditions of the Advisory Agency's determination shall apply.

## **AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

Section 12.21 A. 2 of the Code provides, in pertinent part, as follows:

"2. Other Use and Vari Determinations by the Zoning Administrator. The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

## **BACKGROUND**

On June 3, 1999, Ordinance No. 172,571, commonly referred to as the "Downtown Adaptive Reuse Ordinance", went into effect. The ordinance was amended by Ordinance No. 174,315, which went into effect on December 20, 2001.

The purpose of the Downtown Adaptive Reuse Ordinance, as set forth in Paragraph (a) of Section 12-22-A,26 of the Code, is to "revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve Downtown's cultural and architectural past and encourage the development of a live/work and residential community Downtown, thus creating a more balanced ratio between housing and jobs in the region's primary employment center."

#### Adaptive Reuse Project

The Downtown Adaptive Reuse Ordinance defines an "adaptive reuse project" as "any change of use to dwelling units, guest rooms or joint living and work quarters in all or any portion of any eligible building." A question has been raised as to whether accessory uses are covered by this definition, and therefore eligible to benefit from the ordinance's incentives, exceptions, and other provisions.

As a matter of real estate industry practice, residential developments, including multiple family apartment buildings, condominiums, and hotels and other visitor-serving facilities, typically provide amenities for the common enjoyment and use of residents and guests. These amenities, which may include common open space, recreation and fitness rooms, pools, or recycling areas or rooms, are accessory to the building's main use. Such amenities greatly improve the overall quality of residential developments, and also provide an important public benefit by providing residents and guests with on-site access to recreational and other facilities that otherwise may be in short supply in the surrounding neighborhood.

The Code defines an accessory use, in part, as "a use which is customarily incidental to that of the main building or the main use of the land and which is located in the same zone or a less restrictive zone and on the same lot with a main building or use." The Code allows accessory uses by right in the R3, R4 and R5 multiple dwelling zones, thereby reinforcing and encouraging the real estate industry's practice of providing amenities in residential buildings. In light of this Code provision, and because adaptive reuse projects involve converting existing buildings to new residential uses, it is reasonable to conclude that the definition of "adaptive reuse project" also covers accessory uses.

This conclusion is consistent with the ordinance's objective to revitalize downtown by encouraging residential projects. An effective way to increase the economic viability of these developments, and thus contribute toward downtown's revitalization, is by providing beneficial accessory uses. Given this objective, it can be concluded that the ordinance was not intended to exclude the provision of accessory uses that are a typical component of residential developments, and that may be necessary to attract residents and guests in an evolving and still largely unestablished market.

### New Floor Area

The Downtown Adaptive Reuse Ordinance includes a variety of incentives, exceptions and other provisions; the ordinance's six incentives are spelled out in Paragraph (h) of Section 12.22-A,26 of the Code. With the exception of mezzanines, as set forth in Subparagraph (1) of Section 12.22-A,26(h), the ordinance states that these incentives shall not apply to any new floor area that is added to an Adaptive Reuse Project.

Because the ordinance doesn't define what is meant by "new floor area", the Code's definition of floor area governs. The Code defines floor area as "that area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas." Consequently, any existing building will usually consist of portions that are defined as "floor area", and portions that are not.

Since an adaptive reuse project means a "change of use...in all or any portion of any eligible building", it's reasonable to conclude that the ordinance was not intended to limit the area in an eligible building that may be converted to an adaptive reuse project to those existing portions that are strictly defined as "floor area". Instead, the ordinance was intended to apply to all existing usable space in an eligible building.

On the other hand, the ordinance was not intended to apply to additions that would significantly enlarge an eligible building, since that would be inconsistent with the concept of adapting an existing structure for a new use. Accordingly, with the exception of mezzanines, the ordinance's incentives were not applied to "new floor area" added to an eligible building.

A strict reading of the ordinance could suggest that changing the use of certain portions of an eligible building does add "new floor area". Such an overly literal conclusion would be absurd, however, since the change of use would not actually enlarge the building by even a single square foot. Since a prime objective of the ordinance is to reduce vacant space, the conversion of any existing portions of an eligible building for an adaptive reuse project is consistent with the ordinance's intent. Even if such conversion results in the technical reclassification of some portions of an eligible building as "new floor area", the entire adaptive reuse project should benefit from all of the ordinance's incentives, exceptions, and other provisions.

A related issue concerns adaptive reuse projects that involve interior demolition. The removal of existing portions of an eligible building is usually necessary to effectuate an efficient floor plan and project design that accommodates the new residential and accessory uses. Such removal also may be necessary to make room for upgraded building systems, including new elevators and other mechanical equipment, and to comply with building and fire code provisions that are a condition of the permit.

Such demolition and removal may create leftover empty space. A question has been raised as to whether filling this empty space with new residential and accessory uses adds "new floor area."

If the newly constructed areas are located within the eligible building's existing exterior walls below the existing roof (with the exception of new rooftop structures, as further discussed below), and if the new areas do not exceed the area of the demolished and removed portions, then the building has not actually been enlarged. The building's interior has merely been reconfigured.

The newly constructed areas should therefore not be considered as adding new floor area that enlarges the existing building. Instead, those areas should be considered as integral components of an adaptive reuse project, and therefore fully entitled to benefit from the ordinance's incentives, exceptions, and other provisions. New interior construction to replace demolished and removed portions of an eligible building is consistent with the adaptive reuse concept, and furthers the ordinance's purpose, which is to facilitate the complete conversion of economically obsolete buildings to new, more productive uses.

#### New Rooftop Structures

Existing roofs are usually the site of a variety of structures, such as elevator penthouses or mechanical rooms, that provide a support and/or accessory function to a building's main use. For new residential developments, the rooftop is often the site of common open space areas and accessory structures, including fitness and recreation rooms, pools, tables and benches, and similar features and facilities.

The Code's open space regulations, as set forth in Section 12.21-G, specify that roof decks may be used for common open space. As set forth in Section 12.21.1-B3, the Code also permits roof structures housing elevators, stairways, tanks, ventilating fans, or similar equipment to be erected above applicable height limits. These two Code provisions recognize that the rooftop is a unique feature that is often the only viable location for a building's necessary system components - or, in the case of accessory structures and uses, the best location. This is especially the case for adaptive reuse projects, where the new uses must be accommodated within the building's existing exterior walls, and the lot is too small to allow for the construction of entirely new structures without encroaching on the building's existing footprint.

Since the Code excludes roofs from the definition of "floor area", the construction of new rooftop structures could be considered as adding new floor area that enlarges an eligible building. The new rooftop structures would not benefit from the ordinance's incentives, exceptions, and other provisions, even though the structures themselves would be necessary and integral components of the adaptive reuse project.

Since the roof is an existing portion of an eligible building, reusing it as the platform for new accessory structures is essentially no different from adapting portions below the roof to new uses. In some cases, developers may wish to use the roof as the top level of a multiple level dwelling unit, guest room, or joint living and work quarters, creating

"townhouse-style" units. Since a complete and separate new dwelling unit, guest room, or joint living and work quarters would not be constructed, this approach is still consistent with the adaptive reuse concept. The new structures would not be independently accessible. Rather, they would be functionally and architecturally integrated extensions of the new uses provided below the roof that would not enlarge the building beyond what would be permitted for accessory uses.

For these reasons, the construction of new rooftop structures necessary to fulfill the conditions of the permit, to provide accessory uses or open space areas that are typical components of residential developments; and to provide additional floor space for "townhouse-style" residential uses provided both below and above the existing roof of an eligible building; is consistent with the adaptive reuse concept. If these structures do not exceed one story; do not cause the eligible building to exceed any applicable height limits; and do not cause a net increase in the eligible building's floor area; then they should not be considered as adding new floor area that enlarges an eligible building. Instead, the structures should be considered as integral components of the adaptive reuse project entitled to benefit from all of the ordinance's incentives, exceptions, and other provisions.

#### Open Space Areas

One way for developers to increase the marketability and viability of adaptive reuse projects is to provide desirable common and private open space amenities typically provided in new residential construction. Balconies, patios, terraces, recreation and fitness rooms, pools, and gardens are examples of such desirable amenities.

For adaptive reuse projects, the challenge is provide these amenities by reusing existing portions of older buildings originally designed and constructed for non-residential purposes. Such existing portions may include interior space, lobbies, fire escapes, mezzanines, mechanical rooms, elevator shafts, stair shafts, or elevator penthouses, either above or below the existing roof. A question has been raised as to whether existing portions of an eligible building reused to provide open space should still be considered as floor area, or considered as adding new floor area.

To the extent that classifying such open space amenities as floor area imposes a barrier to the successful conversion of eligible buildings, this barrier should be removed as contrary to the ordinance's fundamental purpose, which is to facilitate the conversion of eligible buildings to residential uses. If existing portions of an eligible building are reused to provide open space, then the building has not actually been enlarged. For these reasons, any existing portions of an eligible building that are converted to open space should no longer remain classified as floor area.

However, any newly created open space areas should still be included in determining compliance with the floor area standards set forth in Section 12.22-A,26(i) of the Code. This regulation establishes a minimum floor area standard of 450 square feet and a minimum average floor area standard of 750 square feet for dwelling units and joint living and work quarters. These standards were intended to facilitate the habitability and quality of the adaptive reuse project. Such open space areas are desirable residential

amenities for the exclusive use and benefit of the residents and guests who will occupy the adaptive reuse project. In a sense, these open space areas are extensions of the interior living spaces. Accordingly, both common and private open space areas should be included in calculating compliance with the minimum floor area and minimum average floor area standards. This will provide an incentive for adaptive reuse projects to provide the same kind of open space amenities typically provided in new residential buildings. Conversely, adaptive reuse projects that choose to provide these amenities will not be penalized by having open space subtracted from the determination of minimum floor area and minimum average floor area for dwelling units and joint living and work quarters.

### Use of Existing Parking Spaces

One of the Downtown Adaptive Reuse Ordinance's main incentives relates to required parking. As the staff report to the City Planning Commission dated May 28, 1999, states, "Many older buildings, especially historic structures, do not have enough existing parking to meet current Code requirements associated with a change of use." (CPC 95-0343 CA). Since additional parking generally cannot be accommodated on the site of existing buildings, especially historic and other older buildings in Downtown Los Angeles, imposing Code required parking could cause an undue hardship.

The ordinance seeks to ease this hardship by making the "required number of parking spaces" the same as the parking that existed on the site on June 3, 1999. To preserve whatever minimal parking might exist on-site, the ordinance also included a requirement that this parking be maintained and not reduced. A question has been raised as to whether the ordinance requires that all of this existing parking be dedicated for the exclusive use of the persons, families or guests who will occupy the adaptive reuse project. This question is especially pertinent since some non-historic office buildings converted to adaptive reuse projects may have on-site parking that actually exceeds what the Code would require if the ordinance had not been adopted and taken effect.

As further stated in the staff report to the City Planning Commission, part of the parking incentive's rationale is "to provide developers with the flexibility necessary to pursue creative fixes to the parking problem..." In other words, developers should have the option to allocate a building's parking spaces for on-site uses, as necessary, or if justified, to enter into shared parking arrangements that provide parking for various off-site uses. As the supply and demand for parking in the area surrounding the adaptive reuse project increases or decreases, a building owner may need to adjust his or her initial parking allocation decisions. For these reasons, it can be concluded that the ordinance's parking provisions were intended to ensure the preservation of a scarce resource, while allowing for its efficient allocation through market mechanisms.

### **FINDING**

For the reasons set forth above, and as more particularly described elsewhere in this determination, I find that: the definition of "adaptive reuse project" includes accessory uses; that changing the use of any portion of an eligible building does not add new floor area; that demolishing any portion of an eligible building does not add new floor area,

so long as any newly constructed areas do not exceed the area of the portions removed; that open space areas created by reusing existing portions of an eligible building are not floor area or new floor area that enlarges an eligible building, but may be counted toward determining compliance with the minimum floor area and minimum average floor area standards for dwelling units and joint living and work quarters; that new one-level rooftop accessory structures (including the top levels of multiple-level dwelling units, guest rooms, or joint living and work quarters) do not add new floor area if built on the existing roof of an eligible building; and that existing parking may be used to provide parking for any on-site or off-site use.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Department of City Planning.

A large, stylized handwritten signature in black ink, appearing to read 'R. Janovic', is written over the typed name and title of Robert Janovic.

ROBERT JANOVIC  
Chief Zoning Administrator  
Telephone No (213) 978-1318

RJ:AB Inc

## **SPECIFIC PLAN INCENTIVE AREAS**

### **Maps of Specific Plan Incentive Areas**

Central Avenue, Chinatown, and Lincoln Heights  
Hollywood Community Redevelopment Project Area  
Wilshire Center/Koreatown Community Redevelopment Project Area

### **Adaptive Reuse Incentive Areas Specific Plan Ordinance No. 175,038**

**Director of Planning Interpretation  
Case No. DIR 2004-7708 (DI)**



## Adaptive Reuse Incentive Areas Specific Plan

Incentive Area

*\* This adaptive reuse incentive area includes all real property with frontage on both sides of Central Avenue south of the Number 10 Freeway & north of Vernon Avenue.*

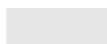
*Ordinance No. 175, 038, effective February 9, 2003*

  
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*page 1 of 3*



## Adaptive Reuse Incentive Areas Specific Plan

 Incentive Area

  
not to scale



## Adaptive Reuse Incentive Areas Specific Plan

- Incentive Area
- Project Area Boundary

\* This adaptive reuse incentive area includes the shaded portion of the Wilshire Center/Koreatown Community Redevelopment Project Area.

Ordinance No. 175, 038, effective February 9, 2003

  
 not to scale

page 3 of 3

## **ADAPTIVE REUSE INCENTIVE AREAS SPECIFIC PLAN**

**Adopted by Ordinance No. 175,038, effective February 9, 2003  
Amended by Ordinance No. 175,587, effective December 1, 2003**

**Clarified by the following Director of Planning Interpretation:  
Case No. DIR 2004-7708 (DI), dated December 21, 2004**

### **SUMMARY**

The Adaptive Reuse Incentive Areas Specific Plan applies to adaptive reuse projects in the following designated incentive areas: (1) Chinatown, Lincoln Heights, and Central Avenue south of Freeway Number 10 and north of Vernon Avenue; (2) the Hollywood Community Redevelopment Project Area; and (3) certain portions of the Wilshire Center/Koreatown Community Redevelopment Project Area. The specific plan includes the following main provisions:

- Rental adaptive reuse projects are permitted by-right in the “C” commercial and “R5” multi-family residential zones in buildings constructed prior to July 1, 1974.
- Adaptive reuse projects in buildings constructed on or after July 1, 1974, must be at least five years old. A Zoning Administrator must also find that such buildings are no longer economically viable in their current use or uses.
- Adaptive reuse projects in the “M” manufacturing zones require a Zoning Administrator’s review and approval.
- Eligible residential buildings that have been completely and continuously vacant since March 1, 2002, may be converted to adaptive reuse projects.
- The incentives for rental and condominium adaptive reuse projects are the same. However, condominium adaptive reuse projects require subdivision approval. Applicants planning condominium adaptive reuse projects are advised to first file with the Deputy Advisory Agency. The Deputy Advisory Agency is also a Zoning Administrator who has the authority to grant all of the incentives available through the Adaptive Reuse Incentive Areas Specific Plan to “for sale” adaptive reuse projects.

### **TEXT OF THE SPECIFIC PLAN**

**Section 1. ESTABLISHMENT OF THE SPECIFIC PLAN.** The City Council hereby establishes the Adaptive Reuse Incentive Areas Specific Plan applicable to the following areas:

**A. Chinatown and Lincoln Heights.** All that real property in the City of Los Angeles, described by the following boundary lines: beginning at the point of intersection of the center lines of Freeway Number 110 (commonly called the Harbor Freeway) and Cesar E. Chavez Avenue, then northeasterly along the center line of the Harbor Freeway to its intersection with Pasadena Avenue, then southwesterly along Pasadena Avenue to Avenue 26, then easterly along Avenue 26 to Workman Street, then southerly along Workman Street to easterly along the real property fronting on the north side of Broadway between Workman Street and Sichel Street, then southerly along Sichel Street to Broadway, then westerly along Broadway to Daly Street, then southerly along Daly Street to its intersection with North Main Street, then westerly, northwesterly and southwesterly along Main Street to its intersection with the centerline of Cesar E. Chavez Avenue, and then northwesterly along the centerline to the point of beginning; and

**B. Hollywood Community Redevelopment Project Area.** All that real property in the City of Los Angeles within the boundaries of the Hollywood Redevelopment Project Area, as legally described in Exhibit B of the Hollywood Redevelopment Plan adopted by the City Council on May 7, 1986; and

**C. Wilshire Center/Koreatown Community Redevelopment Project Area.** All that real property in the City of Los Angeles within the boundaries of the Wilshire Center/Koreatown Redevelopment Project Area, as legally described in Exhibit 2 of the Wilshire Center/Koreatown Redevelopment Plan adopted by the City Council on December 13, 1995, but excluding the following portions of the project area: all that real property southerly of Olympic Boulevard to its intersection with Serrano Avenue, easterly of Serrano Avenue to its intersection with 8th Street, and southerly of 8th Street. Notwithstanding this exclusion, the following portions of the project area shall be an Adaptive Reuse Incentive Area: all real property with frontage along the south side of Olympic Boulevard to its intersection with Serrano Avenue; along the east side of Serrano Avenue from its intersection with Olympic Boulevard northerly to 8th Street; and along the south side of 8th Street; and

**D. Central Avenue.** All that real property in the City of Los Angeles with frontage on both sides of Central Avenue southerly of Freeway Number 10 (commonly called the Santa Monica Freeway) and northerly of Vernon Avenue.

**Sec. 2. PURPOSE.** The purpose of this Specific Plan is to implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve the City's architectural and cultural past and encourage the development of live/work and residential communities in the City's commercial and industrial centers and corridors, thus creating a more balanced ratio between housing and jobs. This revitalization will also facilitate and

encourage mixed commercial and residential uses in order to improve air quality and reduce vehicle trips and vehicle miles traveled by locating residents, jobs, hotels and transit services near each other.

### **Sec. 3. RELATIONSHIP TO PROVISIONS OF THE LOS ANGELES MUNICIPAL CODE AND OTHER REGULATIONS.**

**A.** If the provisions of this Specific Plan conflict with those of the Los Angeles Municipal Code (“Code”), then this Specific Plan shall prevail. In addition, if the provisions of this Specific Plan conflict with any Citywide regulation, height district, zone, zoning ordinance, “Q” condition, or “D” limitation, any of which were adopted or imposed by City action prior to March 1, 2003, then this Specific Plan shall prevail. If the provisions of this Specific Plan conflict with those of any historic preservation overlay zone, any other specific plan, or supplemental use district, then the provisions of the historic preservation overlay zone, other specific plan, or supplemental use district shall prevail. Notwithstanding that limitation, if the provisions of this Specific Plan conflict with the provisions of the Vermont-Western Station Neighborhood Area Plan, Ordinance No. 173,749, then the provisions of this Specific Plan shall prevail.

**B.** Notwithstanding the provisions of Section 11.5.7 of the Code to the contrary, no project permit compliance review shall be required for an Adaptive Reuse Project permitted pursuant to this Specific Plan.

**Sec. 4. DEFINITIONS.** Whenever the following terms are used in this Specific Plan, they shall be construed as defined in this Section. Words and phrases not defined herein shall be construed as defined in Sections 12.03 and 12.20.3 of the Code, if defined therein:

**Adaptive Reuse Project** is any change of an existing Non-Residential Use to new dwelling units, guest rooms, or joint living and work quarters in all or any portion of any Eligible Building.

**Eligible Building** means: (1) any Historically Significant Building; (2) any building constructed in accordance with building and zoning codes in effect prior to July 1, 1974; and (3) any building constructed in accordance with building and zoning codes in effect on or after July 1, 1974, that the Zoning Administrator finds meets the eligibility criteria set forth in Section 6 C below. A certificate of occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the date of construction.

**Historically Significant Building** is any building on the City of Los Angeles List of Historic-Cultural Monuments; any building listed in, or determined by the appropriate governmental agency to be eligible for listing in,

the California Register of Historical Resources; any building listed in, or determined by the appropriate governmental agency to be eligible for listing in, the National Register of Historic Places; any building listed as, or determined by the appropriate governmental agency to be eligible for listing as, a contributing building in a National Register Historic District; or any building identified as a contributing structure in an Historic Preservation Overlay Zone (HPOZ) established pursuant to Section 12.20.3 of the Code.

**Non-Residential Use** means any use other than dwelling units, guest rooms or joint living and work quarters. Except that, if all the dwelling units, guest rooms or joint living and work quarters in an Eligible Building were completely and continuously unoccupied from March 1, 2002 through and including the date an application for an Adaptive Reuse Project is filed pursuant to this Specific Plan, then those units, rooms or quarters shall be considered to be a Non-Residential Use.

**Unified Adaptive Reuse Project** is an Adaptive Reuse Project composed of two or more Eligible Buildings, so long as the Project has all of the following characteristics, as determined by the Zoning Administrator pursuant to Section 6 D below: (1) functional linkages, such as pedestrian or vehicular connections; (2) common architectural and landscape features, which constitute distinctive design elements of the Project; and (3) a unified appearance when viewed from adjoining streets. Unified Adaptive Reuse Projects may include lots that abut or are separated only by an alley or are located across the street from any portion of each other.

**Sec. 5. REGULATIONS.** The following regulations shall apply to Adaptive Reuse Projects in the CR, C1, C1.5, C2, C4, C5, CM and R5 Zones in Adaptive Reuse Incentive Areas. The Zoning Administrator may, upon application, permit Adaptive Reuse Projects in the MR1, MR2, M1, M2 and M3 zones in Adaptive Reuse Incentive Areas pursuant to Section 6 A below. In addition, the Zoning Administrator may, upon application, permit floor area averaging in Unified Adaptive Reuse Projects, pursuant to Section 6 D below.

**A. Incentives.** Adaptive Reuse Projects shall be entitled to the six incentives set forth below. Except for the first incentive concerning mezzanines, these incentives shall not apply to any new floor area that is added to an Adaptive Reuse Project.

**(1) Mezzanines.** Loft spaces in joint living and work quarters, dwelling units and guest rooms that do not exceed more than 33 percent of the floor area of the space below shall not be considered new floor area. Mezzanines may be included in the calculation of floor area for the purpose of determining compliance with the standards set forth in Subsection B (1), below.

**(2) Density.** Dwelling units, joint living and work quarters and guest rooms shall not be subject to the lot area requirements of the zone or height district.

**(3) Off-Street Automobile Parking.** The required number of parking spaces shall be the same as the number of spaces that existed on the site on March 1, 2003, and shall be maintained and not reduced. Adaptive Reuse Projects shall otherwise be exempt from the provisions of Section 12.21 A 4(m) of the Code.

**(4) Mini-Shopping Center and Commercial Corner Development Regulations.** Adaptive Reuse Projects shall be exempt from the mini-shopping center and commercial corner development regulations set forth in Section 12.22 A 23 of the Code.

**(5) Site Plan Review.** Adaptive Reuse Projects shall be exempt from the requirements for Site Plan Review set forth in Section 16.05 of the Code.

**(6) Loading Space.** Where an existing loading space is provided, the provisions of Section 12.21 C 6 (h) of the Code shall apply. If no loading spaces exist, then a loading space shall not be required in conjunction with the development of an Adaptive Reuse Project.

**B. Standards.** If the developer of an Adaptive Reuse Project decides to use the density incentive set forth in Subsection A (2) above, then the project must be developed in compliance with the following standards:

**(1) Dwelling Units and Joint Living and Work Quarters.** The minimum floor area for new dwelling units and joint living and work quarters shall be 450 square feet, provided however, that the average floor area of all such units and quarters in a single Eligible Building, including those that existed prior to March 1, 2003, shall be at least 750 square feet. That minimum average size shall be maintained and not reduced.

Floor area, as defined in Section 12.03 of the Code, shall also not include hallways or other common areas. The floor area of both the living space and the work space shall be combined to determine the size of joint living and work quarters.

**(2) Guest Rooms.** Guest rooms shall include a toilet and bathing facilities.

**C. Exceptions.** Notwithstanding the nonconforming provisions of Section 12.23 of the Code, the following exceptions shall apply to the Eligible Buildings in which Adaptive Reuse Projects are located. These exceptions shall also apply to any Eligible Building in which new floor area or height was added or observed yards changed on or after July 1, 1974, as evidenced by a valid certificate of occupancy.

**(1) Floor Area.** Existing floor area exceeding that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

**(2) Height.** Existing height exceeding that permitted by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

**(3) Yards.** Existing observed yards not meeting the yards required by the zone, height district, specific plan, supplemental use district, or any other land use regulation shall be permitted.

**D. Uses.** Notwithstanding the nonconforming provisions of Section 12.23 B 1 (c) of the Code, or the provisions of Section 12.21 C 5 (h) of the Code concerning buildings or uses that cross two or more zones, dwelling units, guest rooms, and joint living and work quarters shall be permitted in Adaptive Reuse Projects, so long as the use is permitted by the underlying zone or approved by the Zoning Administrator pursuant to Section 6 below.

**E. Conformance with Other Applicable Codes, Provisions, or Guidelines.** Adaptive Reuse Projects shall be developed as determined by the Departments of Building and Safety and Fire in conformance with all applicable codes, provisions, or guidelines the Departments of Building and Safety and Fire.

**Sec. 6. ZONING ADMINISTRATOR APPROVAL.** The Zoning Administrator may, upon application, permit Adaptive Reuse Projects as set forth in this Section. In addition to the findings otherwise required by Section 12.24 X of the Code, the Zoning Administrator shall also make the findings required by this Section.

**A. Manufacturing Zones.** A Zoning Administrator may, upon application, permit Adaptive Reuse Projects in the MR1, MR2, M1, M2 and M3 zones in Adaptive Reuse Incentive Areas, subject to the following:

**(1) Incentives and Exceptions.** The Zoning Administrator may grant, modify or deny some or all of the incentives set forth in Section 5 A above, or some or all of the exceptions set forth in Section 5 C above, to an Adaptive Reuse Project proposed pursuant to this Section.

**(2) Conditions and Findings.** The Zoning Administrator shall:

(i) Require that one or more signs or symbols of a size and design approved by the Fire Department are placed by the applicant at designated locations on the exterior of each Adaptive Reuse Project to indicate the presence of residential uses; and

(ii) Limit the occupations permitted in joint living and work quarters to the following: accountants; architects; artists and artisans; attorneys; computer software and multimedia related professionals; consultants; engineers; fashion, graphic, interior and other designers; insurance, real estate and travel agents; photographers and other similar occupations; and

(iii) Require the Adaptive Reuse Project to comply with all other applicable codes, provisions, or guidelines of the Departments of Building and Safety and Fire pursuant to Section 12.22 A 26 (I) of the Code; and

(iv) Find that the Adaptive Reuse Project complies with the standards for dwelling units, guest rooms, and joint living and work quarters set forth in Section 12.22 A 26 (i) of the Code; and

(v) Find that the uses of property surrounding the proposed location of the Adaptive Reuse Project will not be detrimental to the safety and welfare of prospective residents; and

(vi) Find that the Adaptive Reuse Project will not displace viable industrial uses; and

(vii) Find that any building constructed on or after July 1, 1974, meets the eligibility criteria set forth in Subsection C below.

**B. C and R5 Zones.** The regulations of set forth in Section 5 above, shall apply to an Adaptive Reuse Project in any building constructed on or after July 1, 1974 in the CR, C1, C1.5, C2, C4, C5, CM, or R5 Zones in Adaptive Reuse Incentive Areas provided that the Zoning Administrator determines that the building meets the eligibility criteria set forth in Subsection C below.

**C. Eligibility Criteria for Buildings Constructed on or after July 1, 1974.** A building constructed on or after July 1, 1974 shall be an Eligible Building if the Zoning Administrator finds that:

(1) Five years have elapsed since the date of issuance of final certificates of occupancy; and

(2) The building is no longer economically viable in its current use or uses. In making this finding, the Zoning Administrator shall consider the building's past and current vacancy rate, existing and previous uses, and real estate market information. The Zoning Administrator may require the applicant to submit independently verified documentation.

**D. Floor Area Averaging.** The Zoning Administrator may, upon application, permit floor area averaging in Unified Adaptive Reuse Projects in the MR1, MR2, M1, M2, M3, CR, C1, C1.5, C2, C4, C5, CM, or R5 Zones in Adaptive Reuse Incentive Areas. The averaging of floor area may be permitted for purposes of determining compliance with the 750 square foot minimum average unit size standard for dwelling units and joint living and work quarters, as set forth in Section 5 B above.

Individual buildings may fall below the minimum average unit size standard, so long as the average size of all the dwelling units and joint living and work quarters in the Unified Adaptive Reuse Project is at least 750 square feet, and no dwelling unit or joint living and work quarters is less than 450 square feet in area. The Zoning Administrator shall determine whether a project is a Unified Adaptive Reuse Project. All owners of the property requesting floor area averaging must sign the application. A current title search shall be submitted with the application to insure that all required persons have signed the application.

If the Zoning Administrator approves the floor area averaging, then all owners of the property requesting floor area averaging and all owners of each lot contained in the Unified Adaptive Reuse Project shall execute and record an affidavit. A copy of each executed and recorded affidavit shall be filed with the Office of Zoning Administration. Each affidavit shall run with the land, be approved by the Zoning Administrator prior to the issuance of any building permits, and shall guarantee the following: (1) the use of any floor area converted to dwelling units or joint living and work quarters shall be maintained and not changed; and (2) the number of these units or quarters approved by the Zoning Administrator shall not be increased.

**E. Procedures.** An application for permission pursuant to this Specific Plan shall follow the procedures for adjustments set forth in Section 12.28 C 1, 2, and 3 of the Code. However, the Zoning Administrator may waive the public hearing required in that section if the owners of all properties abutting, across the street or alley from, or having a common corner with the building have expressed in writing no objections to the Adaptive Reuse Project.

# CITY OF LOS ANGELES

CALIFORNIA



EMILIO F. FAHN  
Mayor

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December 21, 2004

## Interested Parties

CASE NO. DIR 2004-7708(DI)  
DIRECTOR OF PLANNING'S  
INTERPRETATION

Department of Building and Safety

Adaptive Reuse Incentive Areas  
Specific Plan, Ordinance No. 175,036

This interpretation replaces and supercedes Case No. DIR 2003-5148(DI) dated August 11, 2003. In the case of conflict between this interpretation and Case No. ZA 2004-6824(ZAI) dated November 5, 2004, this interpretation shall govern.

## ADAPTIVE REUSE PROJECT

The definition of "adaptive reuse project" set forth in Section 4 of the Adaptive Reuse Incentive Areas Specific Plan shall include any change of an existing non-residential use to new uses that are accessory to dwelling units, guest rooms, or joint living and work quarters. These accessory uses must be:

- (1) Consistent with the definition of "accessory use" set forth in Section 12.03 of the Code; and
- (2) Permitted by the underlying zone.

## NEW FLOOR AREA

The following actions shall not be considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions and other provisions set forth in the specific plan:

- (1) Changing the use of any existing portion of an eligible building that Section 12.03 of the Code does not define as "floor area", to new dwelling units, guest rooms, joint living and work quarters, or accessory uses; and



- (2) Demolishing and removing any existing interior portion of an eligible building for the construction of new dwelling units, guest rooms, joint living and work quarters, or accessory uses. The newly constructed areas shall not exceed the area of the portion demolished, and must be located within the same building's existing exterior walls and below the existing roof. However, new rooftop structures may be constructed as discussed below.

The interpretation set forth above shall apply to existing mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or any other existing portion of an eligible building, either above or below the existing roof.

### **NEW ROOFTOP STRUCTURES**

The construction of new structures on the existing roof of an eligible building shall not be considered as adding new floor area that enlarges the building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in the specific plan, subject to the following conditions:

- (1) The new rooftop structures shall not exceed one usable level;
- (2) The new rooftop structures shall not be permitted on any portion of any eligible building that is currently nonconforming as to height. Furthermore, the new rooftop structures shall not cause any portion of any eligible building that is currently conforming as to height to exceed any height limits set forth by the Code, underlying zone, height district, or any other applicable regulation;
- (3) The new rooftop structures shall not cause a net increase in the eligible building's floor area. Any newly created floor area must be offset by an equivalent reduction in existing floor area;
- (4) The new rooftop structures shall be not used for dwelling units, guest rooms, or joint living and work quarters, but must be used solely for accessory uses or open space. Notwithstanding, the existing roof of an eligible building may be used as the top level of a multiple level dwelling unit, guest room, or joint living and work quarters. However, no complete and separate dwelling units, guest rooms, or joint living and work quarters may be constructed on the existing roof of an eligible building; and
- (5) Except for required stair shafts, any newly created roof areas shall not be used for accessory uses, open space, mechanical rooms, elevator shafts, elevator penthouses, or appurtenances, signs, devices or structures of any kind.

### **OPEN SPACE AREAS**

Balconies, patios, terraces, recreation and fitness rooms, pools, gardens, and other common or private open space areas that are created by reusing existing portions of an eligible building shall not be considered as floor area, or considered as adding new floor

area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in the specific plan.

Such existing portions may include exterior space, lobbies, fire escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or other existing portions of an eligible building, either above or below the existing roof. However, these newly created open space areas may be counted toward the calculation of the 450 square foot minimum floor area and 750 square foot minimum average floor area standards for dwelling units and joint living and work quarters set forth in Section 5-B of the specific plan.

### **USE OF EXISTING PARKING SPACES**

Section 5-A (3) of the specific plan states that parking that existed on the site of the adaptive reuse project on March 1, 2003, "shall be maintained and not reduced." At the building owner's sole discretion, these existing spaces may be used to provide parking for any on-site or off-site use.

This interpretation shall not apply to for-sale adaptive reuse projects that the Advisory Agency approves as part of a division of land determination. Instead, the conditions of the Advisory Agency's determination shall apply.

### **AUTHORITY OF THE DIRECTOR OF PLANNING TO INTERPRET SPECIFIC PLANS**

Section 11.5.3 of the Code provides, in pertinent part, as follows:

"In addition to the duties set forth in the Charter, the Director of Planning shall have the authority to interpret the meaning of the General Plan and specific plans in instances when there is a lack of clarity in the meaning of those regulations, subject to appellate review. The Director may appoint a designee to act on his or her behalf, in which case, references in this article to the Director shall include this designee, unless stated otherwise."

### **BACKGROUND**

The purpose of the Adaptive Reuse Incentive Areas Specific Plan, as set forth in Section 2, is to "implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor serving facilities. This will help to reduce vacant space as well as preserve the City's cultural and architectural past and encourage the development of a live/work and residential communities in the City's commercial and industrial centers and corridors, thus creating a more balanced ratio between housing and jobs."

The specific plan was established by Ordinance No. 175, 038. Section 1 defines four incentive areas: (a) Chinatown and Lincoln Heights; (b) Hollywood Community Redevelopment Project Area; (c) Wilshire Center/Koreatown Community Redevelopment Project Area; and (d) Central Avenue.

### Adaptive Reuse Project

The specific plan defines an "adaptive reuse project" as "any change of an existing Non-Residential Use to new dwelling units, guest rooms or joint living and work quarters in all or any portion of any Eligible Building." A question has been raised as to whether accessory uses are covered by this definition, and therefore eligible to benefit from the specific plan's incentives, exceptions, and other provisions.

As a matter of real estate industry practice, residential developments, including multiple family apartment buildings, condominiums, and hotels and other visitor-serving facilities, typically provide amenities for the common enjoyment and use of residents and guests. These amenities, which may include common open space, recreation and fitness rooms, pools, or recycling areas or rooms, are accessory to the building's main use. Such amenities greatly improve the overall quality of residential developments, and also provide an important public benefit by providing residents and guests with on-site access to recreational and other facilities that otherwise may be in short supply in the surrounding neighborhood.

The Code defines an accessory use, in part, as "a use which is customarily incidental to that of the main building or the main use of the land and which is located in the same zone or a less restrictive zone and on the same lot with a main building or use." The Code allows accessory uses by right in the R3, R4 and R5 multiple dwelling zones, thereby reinforcing and encouraging the real estate industry's practice of providing amenities in residential buildings. In light of this Code provision, and because adaptive reuse projects involve converting existing buildings to new residential uses, it is reasonable to conclude that the definition of "adaptive reuse project" also covers accessory uses.

This conclusion is consistent with the specific plan's objective to revitalize designated incentive areas by encouraging residential projects. An effective way to increase the economic viability of these developments, and thus contribute toward the revitalization of incentive areas, is by providing beneficial accessory uses. Given this objective, it can be concluded that the specific plan was not intended to exclude the provision of accessory uses that are a typical component of residential developments, and that may be necessary to attract residents and guests in an evolving and still largely unestablished market.

### New Floor Area

The Adaptive Reuse Incentive Areas Specific Plan includes a variety of incentives, exceptions and other provisions; the specific plan's six incentives are spelled out in Section 5-A. With the exception of mezzanines, as set forth in Section 5-A.1, the specific plan states that these incentives "shall not apply to any new floor area that is added to an Adaptive Reuse Project".

Because the specific plan doesn't define what is meant by "new floor area", the Code's definition of floor area governs. The Code defines floor area as "that area in square feet confined within the exterior walls of a building, but not including the area of the

following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas." Consequently, any existing building will usually consist of portions that are defined as "floor area," and portions that are not.

Since an adaptive reuse project means a "change of an existing Non-Residential Use...in all or any portion of any Eligible Building," it's reasonable to conclude that the specific plan was not intended to limit the area in an eligible building that may be converted to an adaptive reuse project to those existing portions that are strictly defined as "floor area." Instead, the specific plan was intended to apply to all existing usable space in an eligible building.

On the other hand, the specific plan was not intended to apply to additions that would significantly enlarge an eligible building, since that would be inconsistent with the concept of adapting an existing structure for a new use. Accordingly, with the exception of mezzanines, the specific plan's incentives were not applied to "new floor area" added to an eligible building.

A strict reading of the specific plan could suggest that changing the use of certain portions of an eligible building does add "new floor area". Such an overly literal conclusion would be absurd, however, since the change of use would not actually enlarge the building by even a single square foot. Since a prime objective of the specific plan is to reduce vacant space, the conversion of any existing portions of an eligible building for an adaptive reuse project is consistent with the specific plan's intent. Even if such conversion results in the technical reclassification of some portions of an eligible building as "new floor area", the entire adaptive reuse project should benefit from all of the specific plan's incentives, exceptions, and other provisions.

A related issue concerns adaptive reuse projects that involve interior demolition. The removal of existing portions of an eligible building is usually necessary to effectuate an efficient floor plan and project design that accommodates the new residential and accessory uses. Such removal also may be necessary to make room for upgraded building systems, including new elevators and other mechanical equipment, and to comply with building and fire code provisions that are a condition of the permit.

Such demolition and removal may create leftover empty space. A question has been raised as to whether filling this empty space with new residential and accessory uses adds "new floor area."

If the newly constructed areas are located within the eligible building's existing exterior walls below the existing roof (with the exception of new rooftop structures, as further discussed below), and if the new areas do not exceed the area of the demolished and removed portions, then the building has not actually been enlarged. The building's interior has merely been reconfigured.

The newly constructed areas should therefore not be considered as adding new floor area that enlarges the existing building. Instead, these areas should be considered as

integral components of an adaptive reuse project, and therefore fully entitled to benefit from the specific plan's incentives, exceptions, and other provisions. New interior construction to replace demolished and removed portions of an eligible building is consistent with the adaptive reuse concept, and furthers the specific plan's purpose, which is to facilitate the complete conversion of economically obsolete buildings to new, more productive uses.

#### New Rooftop Structures

Existing roofs are usually the site of a variety of structures, such as elevator penthouses or mechanical rooms, that provide a support and/or accessory function to a building's main use. For new residential developments, the rooftop is often the site of common open space areas and accessory structures, including fitness and recreation rooms, pools, tables and benches, and similar features and facilities.

The Code's open space regulations, as set forth in Section 12.21.G, specify that roof decks may be used for common open space. As set forth in Section 12.21.1-B3, the Code also permits roof structures housing elevators, stairways, tanks, ventilating fans, or similar equipment to be erected above applicable height limits. These two Code provisions recognize that the rooftop is a unique feature that is often the only viable location for a building's necessary system components - or, in the case of accessory structures and uses, the best location. This is especially the case for adaptive reuse projects, where the new uses must be accommodated within the building's existing exterior walls, and the lot is too small to allow for the construction of entirely new structures without encroaching on the building's existing footprint.

Since the Code excludes roofs from the definition of "floor area", the construction of new rooftop structures could be considered as adding new floor area that enlarges an eligible building. The new rooftop structures would not benefit from the specific plan's incentives, exceptions, and other provisions, even though the structures themselves would be necessary and integral components of the adaptive reuse project.

Since the roof is an existing portion of an eligible building, reusing it as the platform for new accessory structures is essentially no different from adapting portions below the roof to new uses. In some cases, developers may wish to use the roof as the top story of a multiple story dwelling unit, guest room, or joint living and work quarters, creating "townhouse-style" units. Since a complete and separate new dwelling unit, guest room, or joint living and work quarters would not be constructed, this approach is still consistent with the adaptive reuse concept. The new structures would not be independently accessible. Rather, they would be functionally and architecturally integrated extensions of the new uses provided below the roof that would not enlarge the building beyond what would be permitted for accessory uses.

For these reasons, the construction of new rooftop structures necessary to fulfill the conditions of the permit, to provide accessory uses or open space areas that are typical components of residential developments; and to provide additional floor space for "townhouse-style" residential uses provided both below and above the existing roof of an eligible building; is consistent with the adaptive reuse concept. If these structures do

not exceed one story, do not cause the eligible building to exceed any applicable height limits; and do not cause a net increase in the eligible building's floor area; then they should not be considered as adding new floor area that enlarges an eligible building. Instead, the structures should be considered as integral components of the adaptive reuse project entitled to benefit from all of the specific plan's incentives, exceptions, and other provisions.

### Open Space Areas

One way for developers to increase the marketability and viability of adaptive reuse projects is to provide desirable common and private open space amenities typically provided in new residential construction. Balconies, patios, terraces, recreation and fitness rooms, pools, and gardens are examples of such desirable amenities.

For adaptive reuse projects, the challenge is provide these amenities by reusing existing portions of older buildings originally designed and constructed for non-residential purposes. Such existing portions may include interior space, lobbies, fire escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, or elevator penthouses, either above or below the existing roof. A question has been raised as to whether existing portions of an eligible building reused to provide open space should still be considered as floor area, or considered as adding new floor area.

To the extent that classifying such open space amenities as floor area imposes a barrier to the successful conversion of eligible buildings, this barrier should be removed as contrary to the specific plan's fundamental purpose, which is to facilitate the conversion of eligible buildings to residential uses. If existing portions of an eligible building are reused to provide open space, then the building has not actually been enlarged. For these reasons, any existing portions of an eligible building that are converted to open space should no longer remain classified as floor area.

However, any newly created open space areas should still be included in determining compliance with the floor area standards set forth in Section 5-B of the specific plan. This regulation establishes a minimum floor area standard of 450 square feet and a minimum average floor area standard of 750 square feet for dwelling units and joint living and work quarters. These standards were intended to facilitate the habitability and quality of the adaptive reuse project. Such open space areas are desirable residential amenities for the exclusive use and benefit of the residents and guests who will occupy the adaptive reuse project. In a sense, these open space areas are extensions of the interior living spaces. Accordingly, both common and private open space areas should be included in calculating compliance with the minimum floor area and minimum average floor area standards. This will provide an incentive for adaptive reuse projects to provide the same kind of open space amenities typically provided in new residential buildings. Conversely, adaptive reuse projects that choose to provide these amenities will not be penalized by having open space subtracted from the determination of minimum floor area and minimum average floor area for dwelling units and joint living and work quarters.

### Use of Existing Parking Spaces

One of the Adaptive Reuse Incentive Areas Specific Plan's main incentives relates to required parking. As the staff report to the City Planning Commission dated July 11, 2002, states, "Many older buildings, especially historic structures, do not have enough existing parking to meet current Code requirements associated with a change of use." (CPC 2002-1128 CA) Since additional parking generally cannot be accommodated on the site of existing buildings, especially historic and other older buildings in the designated incentive areas, imposing Code required parking could cause an undue hardship.

The specific plan seeks to ease this hardship by making the "required number of parking spaces" the same as the parking that existed on the site on March 1, 2003. To preserve whatever minimal parking might exist on-site, the specific plan also included a requirement that this parking be maintained and not reduced. A question has been raised as to whether the specific plan requires that all of this existing parking be dedicated for the exclusive use of the persons, families or guests who will occupy the adaptive reuse project. This question is especially pertinent since some non-historic office buildings converted to adaptive reuse projects may have on-site parking that actually exceeds what the Code would require if the specific plan had not been adopted and taken effect.

As further stated in the staff report to the City Planning Commission, part of the parking incentive's rationale is "to provide developers with the flexibility necessary to pursue creative fixes to the parking problem...". In other words, developers should have the option to allocate a building's parking spaces for on-site uses, as necessary, or if justified, to enter into shared parking arrangements that provide parking for various off-site uses. As the supply and demand for parking in the area surrounding the adaptive reuse project increases or decreases, a building owner may need to adjust his or her initial parking allocation decisions. For these reasons, it can be concluded that the specific plan's parking provisions were intended to ensure the preservation of a scarce resource, while allowing for its efficient allocation through market mechanisms.

### **FINDING**

For the reasons set forth above, and as more particularly described elsewhere in this determination, I find that: the definition of "adaptive reuse project" includes accessory uses; that changing the use of any portion of an eligible building does not add new floor area; that demolishing any portion of an eligible building does not add new floor area, so long as any newly constructed areas do not exceed the area of the portions removed; that open space areas created by reusing existing portions of an eligible building are not floor area or new floor area that enlarges an eligible building, but may be counted toward determining compliance with the minimum floor area and minimum average floor area standards for dwelling units and joint living and work quarters, that new one-level rooftop accessory structures (including the top levels of multiple-level dwelling units, guest rooms, or joint living and work quarters) do not add new floor area if built on the existing roof of an eligible building, and that existing parking may be used to provide parking for any on-site or off-site use.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Department of City Planning.

CON HOWE  
Director of Planning

A handwritten signature in black ink, appearing to read 'R. Janovici', written over a horizontal line.

ROBERT JANOVICI  
Chief Zoning Administrator  
Telephone No. (213) 478-1318

RJAB, Inc

## **ALL OTHER LOCATIONS**

### **Excerpts from Los Angeles Municipal Code**

Section 12.24-X, 1  
Section 12.24-X, 13  
Section 12.13-A, 2 (a) (27)

### **Zoning Administrator's Interpretations**

Case No. ZA 2004-7710 (ZAI)  
Case No. ZA 2004-6824 (ZAI)

**LOS ANGELES MUNICIPAL CODE  
SECTION 12.24-X, 1**

**Adopted by Ordinance No. 172,571, effective June 3, 1999  
Amended by Ordinance No. 174,315, effective December 20, 2001  
Amended by Ordinance No. 175,588, effective December 1, 2003**

**Clarified by the following Zoning Administrator's Interpretation:  
Case No. ZA 2004-7710 (ZAI), dated December 21, 2004**

**SUMMARY**

Section 12.24-X, 1 enables a Zoning Administrator to approve adaptive reuse projects, as discussed below. This ordinance does not apply to adaptive reuse projects in any of the areas set forth in the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038.

■ *Inside the Downtown Project Area:*

- Adaptive reuse projects in the "M" manufacturing zones require a Zoning Administrator's review and approval.
- Eligible residential buildings may be converted to adaptive reuse projects.

■ *Outside the Downtown Project Area:*

- Adaptive reuse projects in the "C" commercial and "R5" multi-family residential zones require a Zoning Administrator's review and approval.
- Eligible residential buildings may be converted to adaptive reuse projects, but only if they have been completely and continuously vacant since March 1, 2002.

■ *Inside and Outside the Downtown Project Area:*

- Buildings constructed on or after July 1, 1974, must be at least five years old. A Zoning Administrator must also find that such buildings are no longer economically viable in their current use or uses.
- The incentives for rental and condominium adaptive reuse projects are the same. However, condominium adaptive reuse projects require subdivision approval. Applicants planning condominium adaptive reuse projects are advised to first file with the Deputy Advisory Agency. The Deputy Advisory Agency is also a Zoning Administrator who has the authority to grant all of the incentives available through the Citywide Adaptive Reuse Ordinance to "for sale" adaptive reuse projects.

## TEXT OF EXCERPT FROM LAMC

**1. Adaptive Reuse Projects.** A Zoning Administrator may, upon application, permit Adaptive Reuse Projects pursuant to this subdivision. Except that, the provisions of this subdivision shall not apply to those areas set forth in the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038. Furthermore, the provisions of this subdivision shall not apply to the M zones outside the Downtown Project Area. The boundaries of the Downtown Project Area are described in Section 12.22 A 26 (g) of the Code.

In conformance with Paragraph (b) below, the Zoning Administrator may permit Adaptive Reuse Projects in the M zones inside the Downtown Project Area. Outside the Downtown Project Area, the Zoning Administrator may permit Adaptive Reuse Projects in the C and R5 zones.

In conformance with Paragraph (c) below, the Zoning Administrator may permit Adaptive Reuse Projects in the C and R5 zones in all or any portion of a building constructed on or after July 1, 1974, inside the Downtown Project Area.

In conformance with Paragraph (d) below, the Zoning Administrator may permit floor area averaging in unified Adaptive Reuse Projects in the C, M and R5 zones inside the Downtown Project Area. Outside the Downtown Project Area, the Zoning Administrator may permit this floor area averaging in the C and R5 zones.

**(a) Definitions.** The definition of “Adaptive Reuse Project” set forth in Section 12.22 A 26 (c) of the Code shall apply inside the Downtown Project Area. Outside the Downtown Project Area, the following definitions shall apply:

**Adaptive Reuse Project** is any change of an existing Non- Residential Use to new dwelling units, guest rooms, or joint living and work quarters in all or any portion of any eligible building.

**Non-Residential Use** means any use other than dwelling units, guest rooms, or joint living and work quarters. Except that, if all the dwelling units, guest rooms or joint living and work quarters in an eligible building were completely and continuously unoccupied from March 1, 2002 through and including the date an application for an Adaptive Reuse Project is filed pursuant to this subdivision, then those units, rooms or quarters shall be considered to be a Non-Residential Use.

**(b) C, M and R5 Zones.** The following shall apply to Adaptive Reuse Projects in the MR1, MR2, M1, M2 and M3 zones inside the Downtown Project Area; and to such projects in the CR, C1, C1.5, C2, C4, C5, CM and R5 zones outside the Downtown Project Area:

**(1) Eligible Buildings.** A Zoning Administrator shall only permit Adaptive Reuse Projects in the following buildings:

(i) Buildings constructed in accordance with building and zoning codes in effect prior to July 1, 1974. A Certificate of Occupancy, building permit, or other suitable documentation may be submitted as evidence to verify the date of construction.

(ii) Buildings constructed in accordance with building and zoning codes in effect on or after July 1, 1974, if: five years have elapsed since the date of issuance of final Certificates of Occupancy; and the Zoning Administrator finds that the building is no longer economically viable in its current use or uses.

In making this finding, the Zoning Administrator shall consider the building's past and current vacancy rate, existing and previous uses, and real estate market information. The Zoning Administrator may require the applicant to submit independently verified documentation.

(iii) Buildings designated on the National Register of Historic Places, the California Register of Historical Resources, or the City of Los Angeles List of Historic-Cultural Monuments. Contributing Buildings in National Register Historic Districts or Contributing Structures in Historic Preservation Overlay Zones (HPOZ) established pursuant to Section 12.20.3 of this Code are also eligible buildings.

**(2) Incentives and Exceptions.** The Zoning Administrator may grant, modify or deny some or all of the incentives set forth in Section 12.22 A 26 (h), or some or all of the exceptions set forth in Section 12.22 A 26 (j), to Adaptive Reuse Projects proposed pursuant to this subdivision. Furthermore, the Zoning Administrator shall have the authority to grant any other incentives or exceptions from the Code required to permit Adaptive Reuse Projects proposed pursuant to this subdivision, including but not limited to the authority to permit dwelling units, guest rooms and joint living and work quarters in Adaptive Reuse Projects, notwithstanding the nonconforming provisions of Section 12.23 of the Code.

**(3) Findings and Conditions for the C and R5 Zones.** If the Adaptive Reuse Project is in the CR, C1, C1.5, C2, C4, C5, CM or R5 zones outside the Downtown Project Area, then the Zoning Administrator shall find that the Adaptive Reuse Project complies with the standards for dwelling units, guest rooms and joint living and work quarters set forth in Section 12.22 A 26 (i). Exception: This finding is not required if the Zoning Administrator does not grant the density incentive set forth in Section 12.22 A 26 (h) (2).

Before approving a reduced parking incentive pursuant to Subparagraph (2) above, the Zoning Administrator shall also find that the surrounding area will not be adversely affected by overflow parking or traffic congestion originating or terminating at the site of the Adaptive Reuse Project.

**(4) Findings and Conditions for the M Zones.** If the Adaptive Reuse Project is in the MR1, MR2, M1, M2 or M3 zones inside the Downtown Project

Area, then the Zoning Administrator shall:

(i) Require that one or more signs or symbols of a size and design approved by the Fire Department are placed by the applicant at designated locations on the exterior of each Adaptive Reuse Project to indicate the presence of residential uses;

(ii) Limit the occupations permitted in joint living and work quarters to the following: accountants; architects; artists and artisans; attorneys; computer software and multimedia related professionals; consultants; engineers; fashion, graphic, interior and other designers; insurance, real estate and travel agents; photographers and similar occupations;

(iii) Find that the Adaptive Reuse Project complies with the standards for dwelling units, guest rooms, and joint living and work quarters set forth in Section 12.22 A 26 (i);

(iv) Find that the uses of property surrounding the proposed location of the Adaptive Reuse Project will not be detrimental to the safety and welfare of prospective residents; and

(v) Find that the Adaptive Reuse Project will not displace viable industrial uses.

**(c) Buildings constructed on or after July 1, 1974.** The provisions of Section 12.22 A 26 shall apply to Adaptive Reuse Projects in all or any portion of a building constructed on or after July 1, 1974, in the CR, C1, C1.5, C2, C4, C5, CM, or R5 zones inside the Downtown Project Area if: five years have elapsed since the date of issuance of final Certificates of Occupancy; and a Zoning Administrator finds that the building is no longer economically viable in its current use or uses.

In making this finding, the Zoning Administrator shall consider the building's past and current vacancy rate, existing and previous uses, and real estate market information. The Zoning Administrator may require the applicant to submit independently verified documentation.

**(d) Floor Area Averaging.** The following shall apply to applications to permit floor area averaging in unified Adaptive Reuse Projects in the CR, C1, C1.5, C2, C4, C5, CM, MR1, MR2, M1, M2, M3, or R5 zones inside the Downtown Project Area; and to such applications in the CR, C1, C1.5, C2, C4, C5, CM, or R5 zones outside the Downtown Project Area.

The Zoning Administrator may permit averaging of floor area in unified Adaptive Reuse Projects for purposes of determining compliance with the 750 square foot minimum average unit size standard for dwelling units and joint living and work quarters, as set forth in Section 12.22 A 26 (i). For purposes of this subdivision, a unified Adaptive Reuse Project means an Adaptive Reuse Project composed of two or more buildings, so long as the Project has all of the following characteristics: (a) functional linkages, such as pedestrian or vehicular connections; (a) common architectural and landscape features, which constitute distinctive design elements of the project; and (c) a unified appearance when viewed from adjoining streets. Unified Adaptive Reuse Projects may include lots that abut or are separated only by an alley or are located across the street from any portion of each other.

Individual buildings may fall below the minimum average unit size standard, so long as the average size of all the dwelling units and joint living and work quarters in the unified Adaptive Reuse Project is at least 750 square feet, and no dwelling unit or joint living and work quarters is less than 450 square feet in area. The Zoning Administrator shall determine whether a Project meets the definition of a unified Adaptive Reuse Project as set forth above. All owners of the property requesting floor area averaging must sign the application. A current title search shall be submitted with the application to insure that all required persons have signed the application.

If the Zoning Administrator approves the floor area averaging, then all owners of the property requesting floor area averaging and all owners of each lot contained in the unified Adaptive Reuse Project shall execute and record an affidavit. A copy of each executed and recorded affidavit shall be filed with the Office of Zoning Administration. Each affidavit shall run with the land, be approved by the Zoning Administrator prior to the issuance of any building permits, and shall guarantee the following: (1) The use of any floor area converted to dwelling units or joint living and work quarters shall be maintained and not changed; and (2) The number of these units or quarters approved by the Zoning Administrator shall not be increased.

**(e) Procedures.** An application for permission pursuant to this subdivision shall follow the procedures for adjustments set forth in Section 12.28 C 1, 2, and 3. However, the Zoning Administrator may waive the public hearing required in that section if the owners of all properties abutting, across the street or alley from, or having a common corner with the building have expressed in writing no objections to the Adaptive Reuse Project.

**LOS ANGELES MUNICIPAL CODE  
SECTION 12.24-X, 13**

**Adopted by Ordinance No. 155,843, effective September 11, 1981  
Amended by Ordinance No. 169,670, effective May 13, 1994  
Amended by Ordinance No. 173,992, effective July 6, 2001  
Amended by Ordinance No. 174,315, effective December 20, 2001**

**SUMMARY**

Section 12.24-X,13 enables a Zoning Administrator to approve joint living and work quarters for artists, artisans, architects, and designers. This section includes the following main provisions:

- Adaptive reuse projects in the “M” manufacturing zones may be approved in any existing commercial or industrial building.
- There is no minimum required age for an existing building.
- The incentives for rental and condominium adaptive reuse projects are the same. However, condominium adaptive reuse projects require subdivision approval. Applicants planning condominium adaptive reuse projects are advised to first file with the Deputy Advisory Agency. The Deputy Advisory Agency is also a Zoning Administrator who has the authority to grant all of the incentives available through Section 12.24-X, 13 to “for-sale” adaptive reuse projects.

**TEXT OF EXCERPT FROM LAMC**

**13. Joint Living and Work Quarters.** A Zoning Administrator may, upon application, permit joint living and work quarters for artists and artisans, including individual architects and designers, in commercial and industrial buildings in the CR, CM, MR1, MR2, M1, M2 and M3 Zones, and permit joint living and work quarters with reduced parking in the C1, C1.5, C2, C4 and C5 Zones.

(a) **Findings.** In addition to the findings otherwise required by this section, the Zoning Administrator shall also find:

(1) that the uses of property surrounding the proposed location of the joint living and work quarters and the use of the proposed location will not be detrimental to the health, safety and welfare of prospective residents of the quarters; and

(2) that the proposed joint living and work quarters will not displace viable industrial uses and will not substantially lessen the likelihood that the property will be available in the future for industrial uses.

(b) **Requirements.** The Zoning Administrator shall also require:

(1) that the authorized use shall be of no force and effect unless and until satisfactory evidence is presented to the Zoning Administrator for review and attachment to the file that a business tax registration certificate has been issued to each tenant by the Office of Finance pursuant to Los Angeles Administrative Code Section 21.03 permitting those persons to engage in business as artists or artisans; and

(2) that one or more signs or symbols of a size and design approved by the Fire Department shall be placed by the applicant at designated locations on the exterior of each building approved as joint living and work quarters to indicate that these buildings are used for residential purposes.

(c) **Zoning Administrator Authority.** The Zoning Administrator has the authority to:

(1) Reduce or eliminate yards and setbacks required by this article if they cannot be provided;

(2) Reduce or eliminate off-street automobile parking spaces required by this article if there is no area available for parking on the site; and

(3) Waive the public hearing if the owners of all the properties abutting, across the street or alley from, or having a common corner with the building have expressed no objections to the quarters in writing.

(d) **Procedures.** An application for permission pursuant to this subdivision shall follow the procedures for adjustments set forth in Section 12.28 C1, 2, and 3. However, the Zoning Administrator may waive the public hearing required in that section if the owners of all properties abutting, across the street or alley from, or having a common corner with the buildings have expressed in writing no objections to the quarters.

**LOS ANGELES MUNICIPAL CODE  
SECTION 12.13-A, 2 (a) (27)**

**Adopted by Ordinance No. 169,670, effective May 13, 1994  
Amended by Ordinance No. 172,572, effective June 3, 1999**

**Clarified by the following Zoning Administrator's Interpretation:  
Case No. ZA 2004-6824 (ZAI), dated November 5, 2004**

**SUMMARY**

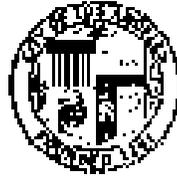
Section 12.13-A,2 (a) (27) permits live/work units on a by-right basis citywide in the C1, C1.5, C2, C4, C5 and CM zones. Parking and yard incentives are provided.

**TEXT OF EXCERPT FROM LAMC**

**(27)** Joint living and work quarters for the following occupations: accountants; architects; artists and artisans; attorneys; computer software and multimedia related professionals; consultants; engineers; fashion, graphic, interior and other designers; insurance, real estate and travel agents; photographers and other similar occupations as determined by the Zoning Administrator, provided that the commercial uses are permitted by the underlying zone. For all existing buildings, the yards required shall be the same as the yards observed by the existing structures on the site. For an existing building, for which a building permit was issued before April 1, 1994, and which contains no more than eight living and work quarters, the number of parking spaces required shall be the same as the number of spaces existing on the site. All other buildings used for this purpose must meet the parking and yard requirements for residential buildings.

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December 21, 2004

Interested Parties

CASE NO. ZA 2004-7710(ZAI)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Department of Building and Safety

Downtown Project Area as Defined in  
Paragraph (g) of Section of Section  
12.22-A, 26 of the Los Angeles  
Municipal Code

Adaptive Reuse Projects Approved  
Pursuant to Section 12.24-X.1 of the  
Los Angeles Municipal Code

This interpretation replaces and supercedes Case No. ZA 2003-5444(ZAI) dated August 11, 2003. In the case of conflict between this interpretation and Case No. ZA 2004-6824 (ZAI) dated November 5, 2004, this interpretation shall govern.

## ADAPTIVE REUSE PROJECT

The definition of "adaptive reuse project" set forth in Paragraph (c) of Section 12.22 A, 26 of the Los Angeles Municipal Code shall include any change of an existing use to new uses that are accessory to dwelling units, guest rooms, or joint living and work quarters. These accessory uses must be:

- (1) Consistent with the definition of 'accessory use' set forth in Section 12.03 of the Code, and
- (2) Permitted by the underlying zone.

## NEW FLOOR AREA

The following actions shall not be considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions and other provisions set forth in Section 12.22-A, 26 of the Code:



- (1) Changing the use of any existing portion of an eligible building that Section 12.03 of the Code does not define as "floor area", to new dwelling units, guest rooms, joint living and work quarters, or accessory uses; and
- (2) Demolishing and removing any interior existing portion of an eligible building for the construction of new dwelling units, guest rooms, joint living and work quarters, or accessory uses. The newly constructed areas shall not exceed the area of the existing portion demolished, and must be located within the same building's existing exterior walls and below the existing roof. However, new rooftop structures may be constructed as discussed below.

The interpretation set forth above shall apply to existing mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or any other existing portion of an eligible building, either above or below the existing roof.

### **NEW ROOFTOP STRUCTURES**

The construction of new structures on the existing roof of an eligible building shall not be considered as adding new floor area that enlarges the building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A, 26 of the Code, subject to the following conditions:

- (1) The new rooftop structures shall not exceed one usable level;
- (2) The new rooftop structures shall not be permitted on any portion of any eligible building that is currently nonconforming as to height. Furthermore, the new rooftop structures shall not cause any portion of any eligible building that is currently conforming as to height to exceed any height limits set forth by the Code, underlying zone, height district, or any other applicable regulation.
- (3) The new rooftop structures shall not cause a net increase in the eligible building's floor area. Any newly created floor area must be offset by an equivalent reduction in existing floor area;
- (4) The new rooftop structures shall be not used for dwelling units, guest rooms, or joint living and work quarters, but must be used solely for accessory uses or open space. Notwithstanding, the existing roof of an eligible building may be used as the top level of a multiple-level dwelling unit, guest room, or joint living and work quarters. However, no complete and separate dwelling units, guest rooms, or joint living and work quarters may be constructed on the existing roof of an eligible building, and
- (5) Except for required stair shafts, any newly created roof areas shall not be used for accessory uses, open space, mechanical rooms, elevator shafts, elevator penthouses, or appurtenances, signs, devices or structures of any kind.

**OPEN SPACE AREAS**

Balconies, patios, terraces, recreation and fitness rooms, pools, gardens, and other common or private open space areas that are created by reusing existing portions of an eligible building shall not be considered as floor area, or considered as adding new floor area that enlarges an eligible building, but shall be considered part of an adaptive reuse project entitled to benefit from the incentives, exceptions, and other provisions set forth in Section 12.22-A.26 of the Code. Such existing portions may include interior space, lobbies, fire escapes, rooftops, mechanical rooms, elevator shafts, stair shafts, elevator penthouses, or other existing portions of an eligible building, either above or below the existing roof. However, these newly created open space areas may be counted toward the calculation of the 450 square-foot minimum floor area and 750 square-foot minimum average floor area standards for dwelling units and joint living and work quarters set forth in Section 12.22-A.26(i) of the Code.

**USE OF EXISTING PARKING SPACES**

Section 12.22-A.26(h)(3) of the Code states that parking that existed on the site of the adaptive reuse project on June 3, 1999 "shall be maintained and not reduced". At the building owner's sole discretion, these existing spaces may be used to provide parking for any on-site or off-site use. This interpretation shall not apply to for-sale adaptive reuse projects that the Advisory Agency approves as part of a division of land determination. Instead, the conditions of the Advisory Agency's determination shall apply.

**AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

Section 12.21 A. 2 of the Code provides, in pertinent part, as follows:

"2. Other Use and Vari Determinations by the Zoning Administrator. The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code and to provide clarity where ambiguity exists.

**BACKGROUND**

On June 3, 1999, Ordinance No. 172,571, commonly referred to as the "Downtown Adaptive Reuse Ordinance", went into effect. The ordinance was amended by Ordinance No. 174,315, which went into effect on December 20, 2001.

The purpose of the Downtown Adaptive Reuse Ordinance, as set forth in Paragraph (a) of Section 12-22-A,26 of the Code, is to "revitalize the Greater Downtown Los Angeles Area and implement the General Plan by facilitating the conversion of older, economically distressed, or historically significant buildings to apartments, live/work units or visitor-serving facilities. This will help to reduce vacant space as well as preserve Downtown's cultural and architectural past and encourage the development of a live/work and residential community Downtown, thus creating a more balanced ratio between housing and jobs in the region's primary employment center."

#### Adaptive Reuse Project

The Downtown Adaptive Reuse Ordinance defines an "adaptive reuse project" as "any change of use to dwelling units, guest rooms or joint living and work quarters in all or any portion of any eligible building." A question has been raised as to whether accessory uses are covered by this definition, and therefore eligible to benefit from the ordinance's incentives, exceptions, and other provisions.

As a matter of real estate industry practice, residential developments, including multiple family apartment buildings, condominiums, and hotels and other visitor-serving facilities, typically provide amenities for the common enjoyment and use of residents and guests. These amenities, which may include common open space, recreation and fitness rooms, pools, or recycling areas or rooms, are accessory to the building's main use. Such amenities greatly improve the overall quality of residential developments, and also provide an important public benefit by providing residents and guests with on-site access to recreational and other facilities that otherwise may be in short supply in the surrounding neighborhood.

The Code defines an accessory use, in part, as "a use which is customarily incidental to that of the main building or the main use of the land and which is located in the same zone or a less restrictive zone and on the same lot with a main building or use." The Code allows accessory uses by right in the R3, R4 and R5 multiple dwelling zones, thereby reinforcing and encouraging the real estate industry's practice of providing amenities in residential buildings. In light of this Code provision, and because adaptive reuse projects involve converting existing buildings to new residential uses, it is reasonable to conclude that the definition of "adaptive reuse project" also covers accessory uses.

This conclusion is consistent with the ordinance's objective to revitalize downtown by encouraging residential projects. An effective way to increase the economic viability of these developments, and thus contribute toward downtown's revitalization, is by providing beneficial accessory uses. Given this objective, it can be concluded that the ordinance was not intended to exclude the provision of accessory uses that are a typical component of residential developments, and that may be necessary to attract residents and guests in an evolving and still largely unestablished market.

### New Floor Area

The Downtown Adaptive Reuse Ordinance includes a variety of incentives, exceptions and other provisions; the ordinance's six incentives are spelled out in Paragraph (h) of Section 12.22-A,26 of the Code. With the exception of mezzanines, as set forth in Subparagraph (1) of Section 12.22-A,26(h), the ordinance states that these incentives shall not apply to any new floor area that is added to an Adaptive Reuse Project.

Because the ordinance doesn't define what is meant by "new floor area", the Code's definition of floor area governs. The Code defines floor area as "that area in square feet confined within the exterior walls of a building, but not including the area of the following: exterior walls, stairways, shafts, rooms housing building-operating equipment or machinery, parking areas with associated driveways and ramps, space for the landing and storage of helicopters, and basement storage areas." Consequently, any existing building will usually consist of portions that are defined as "floor area", and portions that are not.

Since an adaptive reuse project means a "change of use...in all or any portion of any eligible building", it's reasonable to conclude that the ordinance was not intended to limit the area in an eligible building that may be converted to an adaptive reuse project to those existing portions that are strictly defined as "floor area". Instead, the ordinance was intended to apply to all existing usable space in an eligible building.

On the other hand, the ordinance was not intended to apply to additions that would significantly enlarge an eligible building, since that would be inconsistent with the concept of adapting an existing structure for a new use. Accordingly, with the exception of mezzanines, the ordinance's incentives were not applied to "new floor area" added to an eligible building.

A strict reading of the ordinance could suggest that changing the use of certain portions of an eligible building does add "new floor area". Such an overly literal conclusion would be absurd, however, since the change of use would not actually enlarge the building by even a single square foot. Since a prime objective of the ordinance is to reduce vacant space, the conversion of any existing portions of an eligible building for an adaptive reuse project is consistent with the ordinance's intent. Even if such conversion results in the technical reclassification of some portions of an eligible building as "new floor area", the entire adaptive reuse project should benefit from all of the ordinance's incentives, exceptions, and other provisions.

A related issue concerns adaptive reuse projects that involve interior demolition. The removal of existing portions of an eligible building is usually necessary to effectuate an efficient floor plan and project design that accommodates the new residential and accessory uses. Such removal also may be necessary to make room for upgraded building systems, including new elevators and other mechanical equipment, and to comply with building and fire code provisions that are a condition of the permit.

Such demolition and removal may create leftover empty space. A question has been raised as to whether filling this empty space with new residential and accessory uses adds "new floor area."

If the newly constructed areas are located within the eligible building's existing exterior walls below the existing roof (with the exception of new rooftop structures, as further discussed below), and if the new areas do not exceed the area of the demolished and removed portions, then the building has not actually been enlarged. The building's interior has merely been reconfigured.

The newly constructed areas should therefore not be considered as adding new floor area that enlarges the existing building. Instead, those areas should be considered as integral components of an adaptive reuse project, and therefore fully entitled to benefit from the ordinance's incentives, exceptions, and other provisions. New interior construction to replace demolished and removed portions of an eligible building is consistent with the adaptive reuse concept, and furthers the ordinance's purpose, which is to facilitate the complete conversion of economically obsolete buildings to new, more productive uses.

#### New Rooftop Structures

Existing roofs are usually the site of a variety of structures, such as elevator penthouses or mechanical rooms, that provide a support and/or accessory function to a building's main use. For new residential developments, the rooftop is often the site of common open space areas and accessory structures, including fitness and recreation rooms, pools, tables and benches, and similar features and facilities.

The Code's open space regulations, as set forth in Section 12.21-G, specify that roof decks may be used for common open space. As set forth in Section 12.21.1-B3, the Code also permits roof structures housing elevators, stairways, tanks, ventilating fans, or similar equipment to be erected above applicable height limits. These two Code provisions recognize that the rooftop is a unique feature that is often the only viable location for a building's necessary system components - or, in the case of accessory structures and uses, the best location. This is especially the case for adaptive reuse projects, where the new uses must be accommodated within the building's existing exterior walls, and the lot is too small to allow for the construction of entirely new structures without encroaching on the building's existing footprint.

Since the Code excludes roofs from the definition of "floor area", the construction of new rooftop structures could be considered as adding new floor area that enlarges an eligible building. The new rooftop structures would not benefit from the ordinance's incentives, exceptions, and other provisions, even though the structures themselves would be necessary and integral components of the adaptive reuse project.

Since the roof is an existing portion of an eligible building, reusing it as the platform for new accessory structures is essentially no different from adapting portions below the roof to new uses. In some cases, developers may wish to use the roof as the top level of a multiple level dwelling unit, guest room, or joint living and work quarters, creating

"townhouse-style" units. Since a complete and separate new dwelling unit, guest room, or joint living and work quarters would not be constructed, this approach is still consistent with the adaptive reuse concept. The new structures would not be independently accessible. Rather, they would be functionally and architecturally integrated extensions of the new uses provided below the roof that would not enlarge the building beyond what would be permitted for accessory uses.

For these reasons, the construction of new rooftop structures necessary to fulfill the conditions of the permit, to provide accessory uses or open space areas that are typical components of residential developments; and to provide additional floor space for "townhouse-style" residential uses provided both below and above the existing roof of an eligible building; is consistent with the adaptive reuse concept. If these structures do not exceed one story; do not cause the eligible building to exceed any applicable height limits; and do not cause a net increase in the eligible building's floor area; then they should not be considered as adding new floor area that enlarges an eligible building. Instead, the structures should be considered as integral components of the adaptive reuse project entitled to benefit from all of the ordinance's incentives, exceptions, and other provisions.

#### Open Space Areas

One way for developers to increase the marketability and viability of adaptive reuse projects is to provide desirable common and private open space amenities typically provided in new residential construction. Balconies, patios, terraces, recreation and fitness rooms, pools, and gardens are examples of such desirable amenities.

For adaptive reuse projects, the challenge is provide these amenities by reusing existing portions of older buildings originally designed and constructed for non-residential purposes. Such existing portions may include interior space, lobbies, fire escapes, mezzanines, mechanical rooms, elevator shafts, stair shafts, or elevator penthouses, either above or below the existing roof. A question has been raised as to whether existing portions of an eligible building reused to provide open space should still be considered as floor area, or considered as adding new floor area.

To the extent that classifying such open space amenities as floor area imposes a barrier to the successful conversion of eligible buildings, this barrier should be removed as contrary to the ordinance's fundamental purpose, which is to facilitate the conversion of eligible buildings to residential uses. If existing portions of an eligible building are reused to provide open space, then the building has not actually been enlarged. For these reasons, any existing portions of an eligible building that are converted to open space should no longer remain classified as floor area.

However, any newly created open space areas should still be included in determining compliance with the floor area standards set forth in Section 12.22-A,26(i) of the Code. This regulation establishes a minimum floor area standard of 450 square feet and a minimum average floor area standard of 750 square feet for dwelling units and joint living and work quarters. These standards were intended to facilitate the habitability and quality of the adaptive reuse project. Such open space areas are desirable residential

amenities for the exclusive use and benefit of the residents and guests who will occupy the adaptive reuse project. In a sense, these open space areas are extensions of the interior living spaces. Accordingly, both common and private open space areas should be included in calculating compliance with the minimum floor area and minimum average floor area standards. This will provide an incentive for adaptive reuse projects to provide the same kind of open space amenities typically provided in new residential buildings. Conversely, adaptive reuse projects that choose to provide these amenities will not be penalized by having open space subtracted from the determination of minimum floor area and minimum average floor area for dwelling units and joint living and work quarters.

### Use of Existing Parking Spaces

One of the Downtown Adaptive Reuse Ordinance's main incentives relates to required parking. As the staff report to the City Planning Commission dated May 28, 1999, states, "Many older buildings, especially historic structures, do not have enough existing parking to meet current Code requirements associated with a change of use." (CPC 95-0343 CA). Since additional parking generally cannot be accommodated on the site of existing buildings, especially historic and other older buildings in Downtown Los Angeles, imposing Code required parking could cause an undue hardship.

The ordinance seeks to ease this hardship by making the "required number of parking spaces" the same as the parking that existed on the site on June 3, 1999. To preserve whatever minimal parking might exist on-site, the ordinance also included a requirement that this parking be maintained and not reduced. A question has been raised as to whether the ordinance requires that all of this existing parking be dedicated for the exclusive use of the persons, families or guests who will occupy the adaptive reuse project. This question is especially pertinent since some non-historic office buildings converted to adaptive reuse projects may have on-site parking that actually exceeds what the Code would require if the ordinance had not been adopted and taken effect.

As further stated in the staff report to the City Planning Commission, part of the parking incentive's rationale is "to provide developers with the flexibility necessary to pursue creative fixes to the parking problem..." In other words, developers should have the option to allocate a building's parking spaces for on-site uses, as necessary, or if justified, to enter into shared parking arrangements that provide parking for various off-site uses. As the supply and demand for parking in the area surrounding the adaptive reuse project increases or decreases, a building owner may need to adjust his or her initial parking allocation decisions. For these reasons, it can be concluded that the ordinance's parking provisions were intended to ensure the preservation of a scarce resource, while allowing for its efficient allocation through market mechanisms.

### **FINDING**

For the reasons set forth above, and as more particularly described elsewhere in this determination, I find that: the definition of "adaptive reuse project" includes accessory uses; that changing the use of any portion of an eligible building does not add new floor area; that demolishing any portion of an eligible building does not add new floor area,

so long as any newly constructed areas do not exceed the area of the portions removed; that open space areas created by reusing existing portions of an eligible building are not floor area or new floor area that enlarges an eligible building, but may be counted toward determining compliance with the minimum floor area and minimum average floor area standards for dwelling units and joint living and work quarters; that new one-level rooftop accessory structures (including the top levels of multiple-level dwelling units, guest rooms, or joint living and work quarters) do not add new floor area if built on the existing roof of an eligible building; and that existing parking may be used to provide parking for any on-site or off-site use.

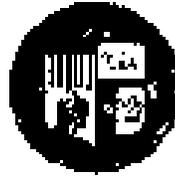
This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Department of City Planning.

A large, stylized handwritten signature in black ink, appearing to read 'R. Janovic', is written over the typed name and title of Robert Janovic.

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November 5, 2004

Interested Parties

CASE NO. ZA 2004-8824(ZA)  
ZONING ADMINISTRATOR'S  
INTERPRETATION

Department of Building and Safety

Joint Living and Work Quarters  
Section 12.13-A.2(a)(27) of the Los  
Angeles Municipal Code

CITYWIDE

## INTRODUCTION

Joint living and work quarters, commonly referred to as "live/work units," are permitted by right in all commercial zones citywide (with the exception of the CR Zone). While Section 12.03 of the Los Angeles Municipal Code limits the residential portion of live/work units to 33 percent of the unit's total floor area, it also requires that kitchens and bathrooms be provided. This requirement enables live/work units to function in the same way as dwelling units. Accordingly, for purposes of applying the Code provisions listed below, live/work units shall be treated as if they were exclusively a residential use:

- Parking and yards;
- Buildable area;
- Floor area and height;
- Density;
- Open space;
- Loading spaces; and
- Mini-shopping centers and commercial corner developments.

## BACKGROUND

Section 12.13-A.2(a)(27) of the Code first permits live/work units in the C1 limited commercial zone. Various development standards and adaptive reuse incentives are set forth. Also, Section 12.13-A.2(a)(27) limits the occupations that may be practiced in live/work units to the following: accountants; architects; artists and artisans; attorneys; computer software and multimedia professionals; consultants; engineers, fashion, graphic, interior and other designers, insurance, real estate and travel agents; and photographers. Similar occupations, as determined by a Zoning Administrator, may also be practiced in live/work units.



Commonly referred to as the "Citywide Live/Work Ordinance," Section 12.13-A,2(a)(27) was established by Ordinance No. 169,670, effective May 13, 1994, and amended by Ordinance No. 172,572, effective June 3, 1999.

Because live/work units combine in a single space both a commercial and a residential use, a question has been raised as to which standards and requirements - commercial or residential - apply. One way to address this issue is to gage the degree of similarity between dwelling units and live/work units. As stated above, live/work units include kitchens and bathrooms, just as dwelling units do. Dwelling units and live/work units are also built, sold, and leased in similar ways. While live/work units are hybrid commercial and residential spaces, they are not divisible. The unit of transaction is a single unit. By contrast, commercial, retail and other non-residential floor area is divisible, and the unit of transaction is a square foot.

The Citywide Live/Work Ordinance provides further guidance on this issue. Specifically, live/work developments that do not qualify for the parking and yard incentives reserved for adaptive reuse projects "must meet the parking and yard requirements for residential buildings." This requirement provides a clear statement of legislative intent. Live/work units are to be treated as if they were dwelling units. There is no language or suggestion that the Code's requirements are to be bifurcated into separate standards applicable to the residential and commercial portions of live/work units. Therefore, as set forth below, any references in the Code to dwelling units or residential uses shall also apply to live/work units, in the same manner and without distinction. Three minor technical clarifications round out the balance of this interpretation.

#### **AUTHORITY OF THE ZONING ADMINISTRATOR TO INTERPRET ZONING REGULATIONS**

Section 12.21-A.2 of the Code provides, in pertinent part, as follows:

**"2. Other Use and Yard Determinations by the Zoning Administrator.** The Zoning Administrator shall have the authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed. The Zoning Administrator shall also have the authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation."

These provisions have also been interpreted to permit resolution of conflicts between disparate sections of the Code, and to provide clarity where ambiguity exists.

#### **RELATIONSHIP TO OTHER REGULATIONS**

The City has adopted various regulations intended to facilitate the adaptive reuse of existing buildings into new livework units. These regulations are set forth in Sections 12.22-A,26 and 12.24-X,13 of the Code, and in the Adaptive Reuse Incentive Areas Specific Plan, Ordinance No. 175,038. For interpretations of these regulations, see: Case

No. ZA 2003-2347(ZA), published on May 2, 2003; and Case No. ZA 2003-5444(ZA) and Case No. DIR 2003-5448(DI), both published on August 11, 2003.

In the case of conflict between these regulations and interpretations, and this interpretation concerning live/work units, the regulations and interpretations cited above shall govern.

## **PARKING AND YARDS**

Pursuant to the Citywide Live/Work Ordinance, the required parking and yards for live/work units are as follows:

"For all existing buildings, the yards required shall be the same as the yards observed by the existing structures on the site. For all existing buildings, for which a building permit was issued before April 1, 1994, and which contains no more than eight living and work quarters, the number of parking spaces required shall be the same as the number of spaces existing on the site. All other buildings used for this purpose must meet the parking and yard requirements for residential buildings."

The following interpretation applies to live/work units in the C1, C1.5, C2, C4, C5 and CM zones, and any zone or area citywide where C1, C1.5, C2, C4, C5 or CM uses are permitted by right.

### **Parking**

For an existing building issued a building permit before April 1, 1994, the parking required for the first eight live/work units equals the "number of spaces existing on the site". A determination as to the "the number of spaces existing on the site" shall be made at the time that application is made for a conversion permit from the Department of Building and Safety. This incentive is subject to Section 17 21-A,4(m), which states that "... the maintenance of more automobile parking space than is required herein for a new building or structure identical to said existing building or structure ..." is not required.

In all other cases, the parking requirements established elsewhere in the Code for dwelling units shall apply to live/work units, as follows:

1. Starting with the ninth live/work unit, for all existing buildings for which a building permit was issued before April 1, 1994;
2. Starting with the first live/work unit, for all existing buildings for which a building permit was issued on or after April 1, 1994; and
3. Starting with the first live/work unit, for all new buildings and additions of new floor area to existing buildings.

No other parking requirements shall apply. As such, the designated work portion of a live/work unit shall not be subject to the parking requirements for commercial and industrial buildings, or for any use other than dwelling units. Live/work units are also eligible to receive the same parking incentives or exceptions established elsewhere in the Code for dwelling units or residential uses.

For purposes of determining required parking, the criteria used to determine the number of habitable rooms in a dwelling unit and in a live/work unit must be the same. All of the area within a live/work unit, including the designated work area, must be considered in determining the number of habitable rooms.

### **Yards**

The yards observed by an existing building proposed for conversion to live/work units, and for which a building permit was issued before April 1, 1994, may satisfy all applicable residential setback requirements. In all other cases, the setback requirements established elsewhere in the Code for dwelling units and residential uses shall also apply to live/work units, as follows:

1. New buildings, and additions of new floor area to existing buildings; and
2. Existing buildings for which a building permit was issued on or after April 1, 1994

While the Citywide Live/Work Ordinance's parking incentive is clearly limited to existing buildings "for which a building permit was issued before April 1, 1994", no similar qualifying date is established for the residential setback incentive. Whether an entirely new commercial building constructed without any setbacks may be immediately converted to live/work units, and still benefit from this incentive, is unclear.

The purpose of adaptive reuse is to recycle older, blighted buildings into new, more productive uses. Because existing commercial or industrial buildings generally do not observe the yards required for new residential buildings, the Council established a residential setback incentive. The incentive was not intended to provide a loophole for developers seeking to evade the Code's more restrictive residential development standards. Since the parking incentive is limited to existing buildings for which a building permit was issued before April 1, 1994, it is appropriate to apply this same restriction to the residential setback incentive.

### **BUILDABLE AREA**

As shown below, the definition of "buildable area" contained in Section 12.03 of the Code provides an incentive to develop dwelling units in the C2, C4 and C5 Zones.

"... in computing the height district limitations on total floor area for any development of residential dwelling units, or of both residential dwelling units and commercial uses, in the C2, C4, or C5 Zones, buildable area shall have the same meaning as lot area. The additional square footage permitted by this calculation for residential use shall not result in an increase in the number of dwelling units beyond that which would have otherwise been permitted but may only be used to increase the floor area or number of habitable rooms within individual dwelling units."

Live/work units may substitute for dwelling units in applying this incentive.

## FLOOR AREA AND HEIGHT

The Citywide Live/Work Ordinance does not provide, for live/work units, any special exception from the Code's floor area and height provisions. As such, the underlying height district (or other applicable regulation) restricts the maximum floor area ratio and height of live/work projects. This restriction shall apply regardless if the project is developed through adaptive reuse or through new construction.

On the other hand, live/work projects shall also benefit from any special height district exceptions. For example, the third unnumbered paragraph in Section 12.21.1 A,1 states that

"A building in Height District Nos. 1-XI, 1-VL, designed and used entirely for residential purposes, or in the RAG3 or RAG4 Zones, shall be limited as to the number of feet in height, but not to the number of stories."

Accordingly, this exception shall also apply to buildings designed and used entirely for live/work units.

## DENSITY

The number of live/work units permitted on a lot is limited by the zone's underlying "minimum lot area per dwelling unit" standards, or any other applicable regulation that restricts the number of dwelling units that may be developed on a lot.

## OPEN SPACE

Section 12.21-G establishes open space requirements for developments of six or more residential units. These requirements shall also apply to live/work units. Because Section 12.21-G only applies to "new construction (resulting in additional floor area and additional units)", the Code's open space requirements have generally not been applied to adaptive reuse projects.

To improve the quality of new residential developments citywide, Section 12.21-G requires the provision of such open space amenities as pools, spas, balconies, ball courts and so on. Since live/work units, like dwelling units, may be used as the principal residences of families with children, they should also be subject to the Code's open space requirements.

## LOADING SPACES

Generally speaking, buildings in the commercial and manufacturing zones must include loading spaces. Section 12.21-G,0(a) of the Code provides an exception from this requirement for buildings that are "erected, structurally altered, enlarged or maintained and used solely as dwellings or apartment houses."

Loading spaces enable the regular delivery of goods in a manner that will not disrupt traffic. Businesses involving wholesale and retail sales are the most likely to require loading

spaces. The low-impact, professional occupations permitted in live/work units are not as likely to require regular, large-volume deliveries. Accordingly, this exception shall also apply to existing or new buildings used solely for live/work units.

### **MINI-SHOPPING CENTERS AND COMMERCIAL CORNER DEVELOPMENTS**

"Mini-shopping centers" and "commercial corner developments" are defined in Section 12.03 of the Code, and regulated by Sections 12.22-A,23 and 12.24 W,27 of the Code. Any references in these regulations to dwelling units, or to multi-family residential uses, shall also apply to live/work units.

Pursuant to Section 12.22-A,23(d)(1), mixed use projects (as defined in Section 13.09-B,3) are exempt from the Code's mini-shopping center and commercial corner development regulations. Section 13.09-B,3 defines a "mixed use project" to mean a project that combines, in a single building or in a unified development, one or more ground floor commercial uses and multiple dwelling units. Live/work units may substitute for dwelling units in determining whether a project qualifies for this mixed use project exemption, but may not satisfy the requirement for ground floor commercial uses.

### **MINOR TECHNICAL CLARIFICATIONS**

Three additional questions have been raised concerning live/work units, which are addressed below:

#### **Zones**

Uses permitted in less intense zones are generally permitted in more intense zones. For example, with few exceptions, any C1 use is permitted by right in the C1.5 Zone, any C1 or C1.5 use in the C2 Zone; any C2 use in the C4 Zone; any C2 use in the C5 Zone; and any C2 use in the CM Zone.

Since live/work units are first permitted in the C1 Zone, they are also permitted in the more intense C1.5, C2, C4, C5 and CM Zones, but not in the CR Zone. Live/work units are also permitted by right in any zone or area citywide where C1, C1.5, C2, C4, C5 or CM uses are permitted by right.

#### **New Construction**

While the Citywide Live/Work Ordinance provides incentives for the adaptive reuse of existing buildings, new construction projects are not prohibited. Accordingly, entirely new live/work buildings may be erected, so long as they are constructed in accordance with the development standards applicable to dwelling units.

#### **Similar Occupations**

The Citywide Live/Work Ordinance restricts the occupations that may be practiced in live/work units to a list of 15 specified occupations. An exception is provided for "other

similar occupations as determined by the Zoning Administrator." An unlisted but similar occupation may be practiced, so long as approval is first obtained from a Zoning Administrator pursuant to Section 12.21-A,2 of the Code. The Zoning Administrator must find that the proposed occupation is similar to the 15 occupations itemized in Section 12.13-A,2(a)(27).

**FINDING**

For the reasons set forth above, and as more particularly described elsewhere in this determination, I find that the following provisions of the Code applicable to dwelling units and residential uses shall also apply, in equal fashion, to live/work units: parking and yards, buildable area, floor area and height, density, open space, loading spaces, and mini-shopping centers and commercial corner developments.

This determination shall be published pursuant to the Los Angeles Municipal Code and administrative practice of the Office of Zoning Administration.



ROBERT JANOVICI  
Chief Zoning Administrator  
Telephone No. (213) 478-1318

RJAB:mc

City of Los Angeles  
Adaptive  
Reuse  
Program

## Fire and Life Safety Measures

- Creates new housing opportunities
- Revitalizes neighborhoods
- Preserves historic architecture
- Encourages community development
- Stimulates economic investment
- Facilitates mixed-use



Fire and Life  
Safety Measures

## **FREQUENTLY ASKED QUESTIONS**

### **City of Los Angeles Adaptive Reuse Construction Standards**

**Must I structurally retrofit the existing building when converting it to joint living and working quarters?**

**Must I comply with disabled access requirements?**

**May I obtain a voluntary structural upgrade permit without first complying with disabled access requirements?**

**Is an AQMD permit required for asbestos removal?**

**May a fire escape be used as a required exit?**

**Is a roof top use allowed?**

**Are sprinklers required for adaptive reuse buildings?**

**May existing openings located on the property line (i.e. windows) be retained?**

**What are the requirements for smoke control systems?**

**Are emergency escape or rescue windows required?**

**Must I structurally retrofit the existing building when converting it to joint living and working quarters?**

YES. The conversion of any portion of an existing building to Joint Living and Work Quarters shall be analyzed for 75% of the Design Basis Ground Motion, as defined in CBC Section 1627, and as specified in California Building Code (CBC) Section 1629.1, and shall not be designed less than the original building design. To obtain specifics on structural systems, refer to Chapter 85 of the Los Angeles Building Code or contact your local building official.

**Must I comply with disabled access requirements?**

NO. Conversion of an existing building to a privately-owned residential use does not trigger disabled access requirements. Any portion of a building utilized for work, however, requires disabled access if there are employees, or if that portion of the building is open to the general public.

**Note:** If the existing commercial components will be maintained, then any remodeling including structural upgrades are subject to disabled access requirements.

**May I obtain a voluntary structural upgrade permit without first complying with disabled access requirements?**

NO. Division I compliance is required when alterations, structural repairs, or additions are made to existing buildings or facilities.

However, the disabled access and plan check supervisor may grant an early start modification for buildings that are being converted to 100% residential use. These modifications will be handled on a case-by-case basis.

**Is an AQMD permit required for asbestos removal?**

YES. A South Coast Air Quality Management District (AQMD) permit is a written authorization to build, install, alter, replace, or operate equipment that emits or controls the emission of air contaminants, like asbestos, fine particulate matter (PM10), oxides of sulfur (SOx), or toxics. State and federal clean air regulations mean that air pollution control permits are a part of doing business in the Basin. Permits ensure that emission controls meet the need for our region to make steady progress toward achieving and maintaining federal and state air quality standards. You can obtain further information from the AQMD Web site [www.aqmd.gov](http://www.aqmd.gov).

**May a fire escape be used as a required exit?**

YES, when two or more exits are required, one exit may be an existing fire escape. The fire escape shall be in good operating condition and shall not be used as an exit for an assembly occupancy.

**Is a roof top use allowed?**

Roof top occupancies are allowed provided the use is not located above the story or height set by Table 5B of the Los Angeles Building Code. Two means of egress are required for common use areas above the second floor. Common use areas with assembly occupancy of 50 or more occupants shall not use a fire escape as a means of egress.

**Are sprinklers required for adaptive reuse buildings?**

Sprinklers shall be provided if required by current code. High-rise buildings with building permits issued prior to July 1, 1974 may comply with the fire safety standards of Section 91.8604, provided the sprinkler calculation in mixed occupancies is in accordance with NFPA 13 and sprinkler heads are the quick response type.

**May existing openings located on the property line (i.e. windows) be retained?**

Existing unprotected opening(s) may be maintained without complying with current code. However, openings that need to be protected or are not allowed by current code, due to proximity to property line(s), shall be protected with a water curtain. Exterior openings that are not allowed by the current code due to proximity to property line(s) shall not be used to satisfy other code requirements, such as light and ventilation, smoke control, or emergency egress. Also, openings in enclosed exit stairs shall comply with CBC Section 1005.3.3.

**What are the requirements for smoke control systems?**

Existing high-rise buildings shall provide smoke control system(s) for all portions of the building, including the basement. Section 8502.3 of the LABC provides exceptions for mechanical smoke control requirements.

**Are emergency escape or rescue windows required?**

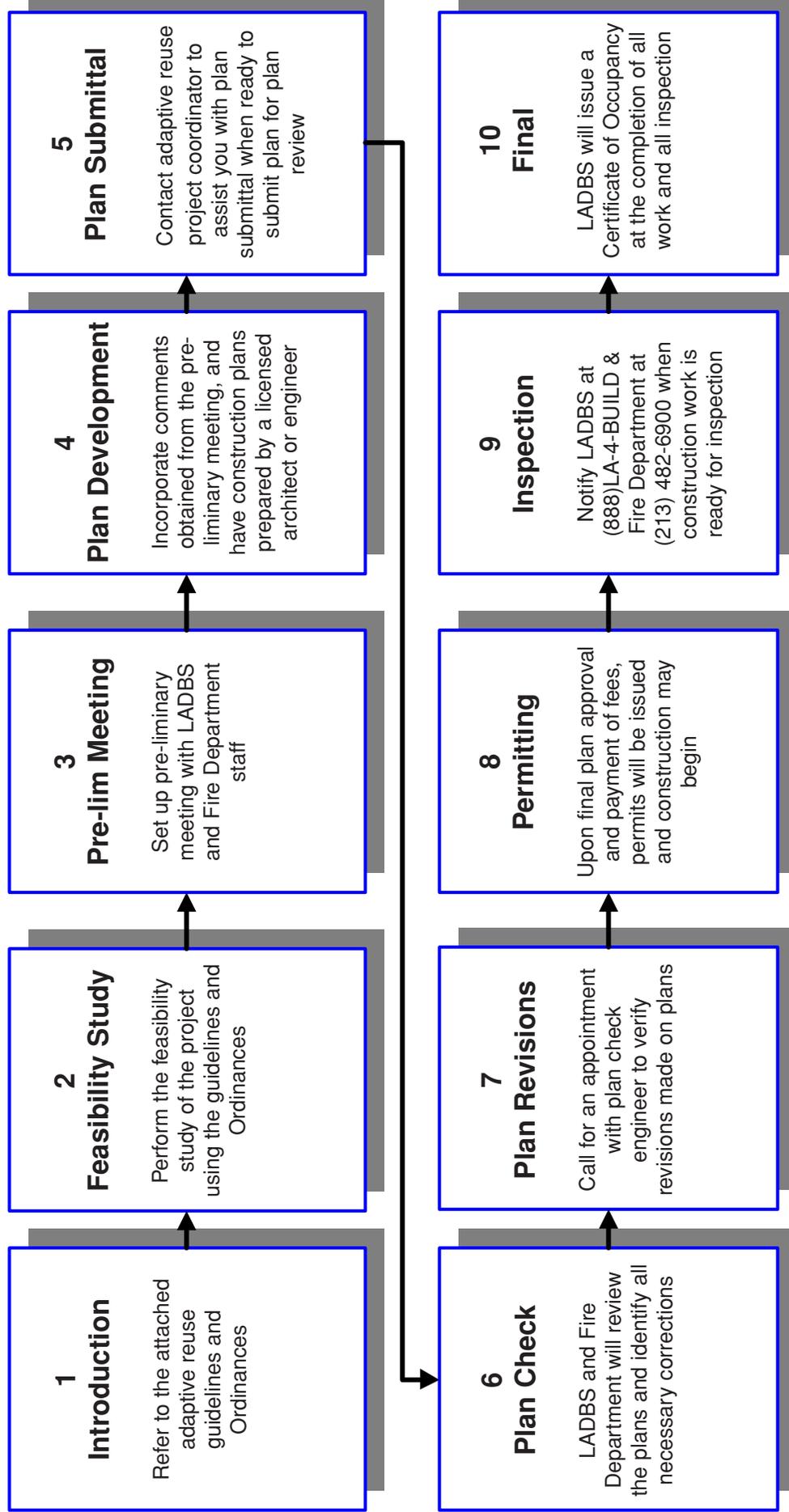
Every sleeping area below the fourth story shall be provided with an emergency escape or rescue window or door, which complies with the requirements of CBC Section 310.4. Every escape or rescue window shall open to a public street, public alley, yard or exit court. Emergency escape and rescue window(s) may open into an exiting court as specified in Section 8502.1.2 of the LABC.



## GUIDELINES ON OBTAINING PERMITS FOR ADAPTIVE REUSE PROJECTS (ARP)\*

\*Please see attached for detailed information.

Rev. 7/2002



## Guidelines on obtaining permits for Adaptive Reuse Projects (ARP)

1. A City task force consisting of key staff from the Mayor's Office of Economic Development/LA Business Team, Los Angeles Fire Department, and Department of Building and Safety (LADBS) has been assembled to guide, assist and facilitate Adaptive Reuse projects through every stage of design, entitlement, permitting, construction and inspection.
2. For further information, please refer to [www.ladbs.org](http://www.ladbs.org). Also, the following table may be used as a guideline for referring to some related code sections.

Questions	Where to look for (always refer to the original documents for the entire content)	
	Downtown Area	Outside of Downtown Area
Definition of ARP	ARO 12.22A26 (c)	Specific Plan Section 4
Boundary of project area	ARO 12.22A26 (g)	Specific Plan Section 1
Eligible buildings	ARO 12.22A26 (d)	Specific Plan Section 4 & 5
Incentives for density, parking, new mezzanine area, loading zone, etc	ARO 12.22A26 (h)	Specific Plan Section 5A
Exceptions to floor area, height, yard setbacks	ARO 12.22A26 (j)	Specific Plan Section 5C
Standards	ARO 12.22A26 (i)	Specific Plan Section 5B
Current zoning designation	Log on <a href="http://www.ladbs.org">www.ladbs.org</a> , select Online Services, then Parcel Profile Report	
Design criteria for fire life safety related issues	Division 85 Alternative Building Standards for Joint Living and Work Quarters	

3. Please call Case Management at (213) 482-6864 to schedule a Feasibility/Pre-development meeting with the ARO Task Group. The meeting will be scheduled within 14 working days from the time you provide the following: A completed Feasibility Study Request Form, which can be downloaded from [www.ladbs.org](http://www.ladbs.org), under Reports & Publications, Adaptive Reuse Project. The Form can be faxed to "Attention Case Management Adaptive Reuse" at 213-482-6874.
4. Incorporate the comments from the preliminary meeting, finalize the design work and prepare construction plans. The plans must be signed and stamped by a California State licensed architect and/or engineer.
5. Complete permit applications ([www.ladbs.org/Forms/forms.htm](http://www.ladbs.org/Forms/forms.htm)) for each discipline and submit plans. Contact the project manager to assist you with the plan submittal. All plan submittals will be at the Metro Office of Department of Building and Safety (201 N. Figueroa Street).

Type of permit	Permit covers:	Comment
Building permit	Fire and life safety items Structural upgrade Demolition work Disabled access compliance (for commercial component only, if any)	Three sets of architectural plans required - one for building plan check - one for Fire Dept. plan check - one set for Disabled Access Division One set of structural calculation Four sets of Soil's Report (if required) - one for Building Plan Check - three for Grading Division
Mechanical permit	HVAC System Smoke Evacuation System	One set of plan and calculation required
Plumbing permit	Waste and Vent System Water piping, Gas System	One set of plan and calculation required
Sprinkler Permit	Fire sprinkler, fire pump, storage tank, stand pipes	One set of plan and calculation required
Electrical permit	Electrical works Fire Alarm System	One set of plan and calculation required for each item. One permit may be obtained for both items. Fire alarm require LAFD clearance
Elevator permit	Elevator works (if any)	One set of plan and calculation required

6. The plan check review time depends on the current backlog but normally takes four to six weeks. There is an expedited plan check process available by LADBS and LA Fire Department for an additional review fee on top of the submittal fee. The expedite process may shorten the total plan check process by about half. The Plan Check Engineer will provide applicants with a list of corrections, and a clearance summary sheet - if clearance is required from other agencies - when plan checking is completed.
7. The applicant will revise the plans to comply with the corrections, obtain all the required agency clearances then call the plan check engineer for a verification appointment.
8. Once the revised plans are in conformance with the Los Angeles Municipal Codes, LADBS will issue the permits after permit fees are paid. The applicant may then begin construction.
9. The applicant must notify LADBS when the work is ready for inspection. To request an inspection, the applicant should contact LADBS at (888) LA-4-BUILD and Fire Department at (213) 482-6900.
10. A report from a certified asbestos consultant is required if any demolition work will remove materials containing asbestos.
11. After final inspection approval, LADBS will issue a Certificate of Occupancy (C/O) for the project.

CALIFORNIA CODES  
HEALTH AND SAFETY CODE  
SECTION 17958.11

**17958.11. (a) Any city or county may adopt alternative building regulations for the conversion of commercial or industrial buildings, or portions thereof, to joint living and work quarters. As used in this section, "joint living and work quarters" means residential occupancy by a family maintaining a common household, or by not more than four unrelated persons, of one or more rooms or floors in a building originally designed for industrial or commercial occupancy which include (1) cooking space and sanitary facilities in conformance with local building standards adopted pursuant to Section 17958 or 17958.5 and (2) adequate working space reserved for, and regularly used by, one or more persons residing therein.**

The alternative building regulations adopted pursuant to this section shall be applicable in those geographic areas specifically designated for such occupancy, or as expressly permitted by a redevelopment plan with respect to a redevelopment project area. The alternative building regulations need not impose the same requirements as regulations adopted pursuant to Section 17922, except as otherwise provided in this section, but in permitting repairs, alterations, and additions necessary to accommodate joint living and work quarters, the alternative building regulations shall impose such requirements as will, in the determination of the local governing body, protect the public health, safety, and welfare.

(b) The Legislature hereby finds and declares that a substantial number of manufacturing and commercial buildings in urban areas have lost manufacturing and commercial tenants to more modern manufacturing and commercial premises, and that the untenanted portions of such buildings constitute a potential resource capable, when appropriately altered, of accommodating joint living and work quarters which would be physically and economically suitable particularly for use by artists, artisans, and similarly-situated individuals. The Legislature further finds that the public will benefit by making such buildings available for joint living and work quarters for artists, artisans, and similarly-situated individuals because (1) conversion of space to joint living and work quarters provides a new use for such buildings contributing to the revitalization of central city areas, (2) such conversion results in building improvements and rehabilitation, and (3) the cultural life of cities and of the state as a whole is enhanced by the residence in such cities of large numbers of persons regularly engaged in the arts.

(c) The Legislature further finds and declares that (1) persons regularly engaged in the arts require larger amounts of space for the pursuit of their artistic endeavors and for the storage of materials therefor, and of the products thereof, than are regularly found in dwellings, (2) the financial remunerations to be obtained from a career in the arts are generally small, (3) persons regularly engaged in the arts generally find it financially difficult to maintain quarters for their artistic endeavors separate and apart from their places of residence, (4) high property values and resulting rental costs make it particularly difficult for persons regularly engaged in the arts to obtain the use of the amount of space required for their work, and (5) the residential use of such space is accessory to the primary use of such space as a place of work.

It is the intent of the Legislature that local governments have discretion to define geographic areas which may be utilized for joint living and work quarters and to establish standards for such occupancy, consistent with the needs and conditions peculiar to the local environment. The Legislature recognizes that building code regulations applicable to residential housing may have to be relaxed to provide joint living and work quarters in buildings previously used for commercial or industrial purposes.

**LOS ANGELES MUNICIPAL CODE**

Chapter IX, Article 1

**City of Los Angeles Building Code**

Division 85

(Adopted by Ordinance No. 176673, effective July 6, 2005)

ORDINANCE 176673

An ordinance amending Division 85 of Article 1 of Chapter IX of the Los Angeles Municipal Code (LAMC) in its entirety to be in conformance with the requirements of Section 17958.11 of the Health and Safety Code regarding conversion of an existing commercial or industrial building, or portion thereof, to "joint living and work quarters."

**WHEREAS**, City Council passed an ordinance (Ord. No. 156,279, Effective February 20, 1982) establishing alternate building standards for joint living and work quarters for artists (Artist-in-Residence), which are currently found in Division 85 of Article 1 of Chapter IX of the Los Angeles Municipal Code; and

**WHEREAS**, Section 17958.11 (a) of the Health and Safety Code states in part, that a local jurisdiction "... may adopt alternative building regulations for the conversion of [an existing] commercial or industrial building, or portion thereof, to joint living and work quarters . . . "; and

**WHEREAS**, the alternative building regulations adopted herein, shall be applicable in the geographic areas specially designated for "Joint Living and Work Quarters," or as expressly permitted by a redevelopment plan with respect to a redevelopment project area; and

**WHEREAS**, Section 17958.11 (c) of the Health and Safety Code states that "... building code regulations [alternative building regulations] applicable to residential housing may have to be relaxed to provide joint living and work quarters in buildings previously used for commercial or industrial purposes."; and

**WHEREAS**, the residential standards for the conversion of existing commercial or industrial buildings to joint living and work quarters have been relaxed, however, the safety level of the occupants is maintained by assuring the building meets the current standards.

**NOW THEREFORE,**

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Division 85 of Article 1 of Chapter IX of the Los Angeles Municipal Code is amended to read:

## DIVISION 85

### ALTERNATIVE BUILDING STANDARDS FOR JOINT LIVING AND WORK QUARTERS

#### SEC. 91.8501. GENERAL.

**91.8501.1. Purpose.** The purpose of this division is to provide alternative building standards for the conversion of Existing Buildings, or portions thereof, from commercial or industrial uses to Joint Living and Work Quarters. The alternative standards are designed to provide a reasonable level of safety to the building occupants, and are in conformance with the provisions of Section 17958.11 of the Health and Safety Code.

**91.8501.2. Application.** Nothing in this division shall be construed to allow the reduction of the seismic or fire and life safety elements of an Existing Building, where such elements provide a greater level of protection than the minimum requirements established by this division.

The alternative building standards of this division may be applied when the commercial or industrial uses in an Existing Building are converted (change of use or occupancy) to Joint Living and Work Quarter(s) provided:

**A. General Fire and Life Safety Requirements for All Existing Buildings.** All Existing Buildings that are converted to Joint Living and Work Quarter(s) shall comply or be made to comply with all of the building area, height, number of stories, type of construction, occupancy, means of egress and other fire and life safety requirements of this code for a new building of the same use or occupancy, except as provided in this division.

**B. Structural Requirements for Division 88 Buildings.** For Existing Buildings which are within the scope of Division 88, a change of occupancy or use of any portion of a building constructed prior to October 6, 1933 to a Joint Living and Work Quarter may be permitted provided the building complies or is made to comply with the structural requirements of Section 91.8502.12.1 of this division.

**C. Structural Requirements for Existing Buildings Other than Division 88 Buildings.** For all other buildings, the change of occupancy or use of any portion of an Existing Building to a Joint Living and Work Quarter may be permitted provided the entire building complies or is made to comply with all the structural requirements of this code for a new building, except as provided in Section 91.8502.12 of this division.

**91.8501.3. Definition.** For the purpose of this division, certain terms are defined as follows:

**ARTIST-IN-RESIDENCE** is an artist or artists using a space within a building for combined living and artistic working purposes.

**EXISTING BUILDING** is a building for which a building permit was issued prior to April 1, 1994.

**FEMA 351 "RECOMMENDED SEISMIC EVALUATION AND UPGRADE CRITERIA FOR EXISTING WELDED STEEL MOMENT-FRAME BUILDINGS"** is the July 2000 edition prepared by the partnership of the Structural Engineers Association of California, the Applied Technology Council, and the California Universities for Research in Earthquake Engineering (SAC) Joint Venture for the Federal Emergency Management Agency, Washington, DC.

**FEMA 352, "RECOMMENDED POST-EARTHQUAKE EVALUATION AND REPAIR CRITERIA FOR WELDED STEEL MOMENT-FRAME BUILDINGS"** is the June 2000 edition prepared by the partnership of the Structural Engineers Association of California, the Applied Technology Council, and the California Universities for Research in Earthquake Engineering (SAC) Joint Venture for the Federal Emergency Management Agency, Washington, DC.

**FEMA 356, "PRESTANDARD AND COMMENTARY FOR THE SEISMIC REHABILITATION OF BUILDINGS"** is the November 2000 edition prepared by the partnership of the Structural Engineers Association of California, the Applied Technology Council, and the California Universities for Research in Earthquake Engineering (SAC) Joint Venture for the Federal Emergency Management Agency, Washington, DC.

**GUIDELINES FOR SEISMIC RETROFIT OF EXISTING BUILDINGS** is the July 2001 edition of the Guidelines for Seismic Retrofit of Existing Buildings, published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601-2298.

**JOINT LIVING AND WORK QUARTER** is a residential occupancy of one or more rooms or floors used as a dwelling unit with adequate working space reserved for, and regularly used by, one or more persons residing therein pursuant to Health and Safety Code (H&S) Section 17958.11 (a).

**QUALIFIED HISTORICAL BUILDING** is any building deemed of importance to the history, architecture or culture of any area by an appropriate local, state or federal governmental jurisdiction. This shall include designated

buildings on, or determined eligible for, official national, state or local historical registers or official inventories, such as the National Register of Historic Places, California Register of Historical Resources, State Historical Landmarks, State Points of Historical Interest, and officially adopted city or county registers, inventories, or surveys of historical or architecturally significant sites, places or landmarks.

**STATE HISTORICAL BUILDING CODE** is a set of code standards known as Part 8, Title 24 of the California Code of Regulations and published as Part 8 of the Historical Building Code. The State Historical Building Code is duplicated in Division II, Chapter 34 of the California Building Code.

**91.8501.4. General.** A Joint Living and Work Quarter shall not be used for public sales purposes or for instructional classes when either is inconsistent with residential use. No hazardous activities such as, but not limited to, welding, open flame, or storage of flammable liquids shall occur in the Joint Living and Work Quarter.

**EXCEPTION:** In buildings three stories or less in height, activities such as welding, open flame, or minimal storage of flammable liquids may be allowed provided written approval is obtained from the Fire Department.

All buildings containing a Joint Living and Work Quarter shall have a sign posted in a conspicuous location at each entrance to the building. The sign shall be constructed of a durable weatherproof material and shall meet the requirements of Los Angeles Fire Department Standard No. 58. In the lower white diamond of the sign, a red colored letter "A" shall be placed so as to meet the size and letter thickness specified in the Los Angeles Fire Department Standard No. 58.

If any portion of an Existing Building is converted to a Joint Living and Work Quarter, then the entire building, including any portion not being converted, shall comply with all of the requirements of the code for a new building of the same use and type of construction except as provided in this division.

## **SEC. 91.8502. ALTERNATIVE STANDARDS.**

**91.8502.1. Use or Occupancy.** When applying this division, a Joint Living and Work Quarter shall be classified as Group R, Division 1 occupancy and comply with all Group R, Division 1 occupancy requirements of the Code, except as provided in this division. Not more than 33 percent of the total floor area of a Joint Living and Work Quarter shall be used or arranged for residential purposes such as sleeping area, cooking space, sanitary facilities and closet areas.

**91.8502.1.1. Ceiling Height.** Existing ceiling height within a Joint Living and Work Quarter may be maintained, provided the ceiling height is not less than seven feet, except that the ceiling height above a mezzanine may be six feet six inches to any structural projections from the ceiling.

**91.8502.1.2. Emergency Escape.** Every room below the fourth story where occupants sleep in a Joint Living and Work Quarter shall be provided with an emergency escape or rescue window or door, which complies with the requirements of C.B.C. Section 310.4.

**EXCEPTION:** The emergency escape or rescue window or door may open directly into an existing court, provided:

**A.** The court is accessible to the Fire Department.

**B.** The court is provided with a minimum of one direct exit to a corridor, exit stairway, exit passageway, exterior exit stairway, exterior exit balcony, or exterior exit ramp, or existing fire escape. The existing fire escape shall be structurally sound and shall not serve as an exit for an assembly use.

**C.** All openings in walls surrounding the court shall be protected as required by C.B.C. Section 503.3 or be provided with an approved water curtain.

**91.8502.2. Exterior Wall and Exterior Opening Protection.** Existing construction of the exterior walls may be maintained without complying with current exterior fire resistive wall construction.

Existing unprotected exterior openings, which are not allowed or are required to be protected due to their proximity to a property line, may be maintained without complying with the requirements of C.B.C. Section 503.2, provided the openings are protected with an approved water curtain. Openings in the exterior walls that are not allowed by C.B.C. Section 503.2 due to their proximity to a property line, may not be used to satisfy other code requirements, such as, light and ventilation, smoke control or emergency escape.

**91.8502.3. Smoke Control System.** Existing high-rise buildings shall provide a smoke control system in all portions of the building including basements. The smoke control system shall meet the requirements of C.B.C. Section 905 or all the requirements of this section.

**EXCEPTION:** The following areas are exempt:

- A.** New or existing rooms less than 50 square feet in area.
- B.** New or existing rooms located at or above grade level provided the room has a direct exit to the exterior of the building.
- C.** Floor levels with openable windows or breakable tempered glass panels in the exterior walls. The area of the openable windows or breakable tempered glass panels shall be a minimum of 20 square feet in area. The openable windows or breakable tempered glass panels shall be located in the exterior walls around the perimeter of the floor no more than 50 linear feet.

**91.8502.3.1. Capacity.** Smoke-control systems shall provide at least six air changes per hour for all areas within the building including basements, provide exhaust to the exterior of the building, and provide an adequate makeup air supply that is uniformly distributed.

**91.8502.3.2. Smoke Dampers.** If a smoke-control system serves more than one floor, then smoke dampers shall be installed in the main exhaust air ducts and the main supply air ducts serving each floor and shall comply with the activation requirements of C.B.C. Section 713.10.2. The smoke dampers shall be installed in a manner that will prevent the movement of smoke from one floor to another floor when the dampers are closed. The vertical risers of the main exhaust air duct shall be installed in metal ducts complying with the requirements for product-conveying ducts in Chapters 5 and 6 of the Mechanical Code.

In the firefighter's control panel, all smoke dampers within the same smoke-control zone shall be actuated by one On-Auto-Off switch in accordance with C.B.C. Section 905.13.2, except that an alternate actuation method may be allowed when approved by both the Fire Department and the Department.

Combination fire and smoke dampers, and smoke dampers shall be listed to conform to UL 555 and they shall be accessible for inspection, service and repair. Pneumatic tubing to operate these dampers shall be of noncombustible materials.

**91.8502.3.3. Firefighter's Control Panel.** The firefighter's control panel shall comply with all the requirements of C.B.C. Section 905.13, except that graphically depicted representation of the building may be omitted when accepted by the Fire Department. The firefighter's control panel shall monitor and be capable of overriding the Mechanical Test Panel. The Mechanical Test Panel is a separate control panel which provides controls and displays the status of the ventilation fans, dampers, and other smoke

control devices as required by C.B.C. Section 905 and shall be located in the same room as the Firefighter's Control Panel.

**91.8502.3.4. Performance Test.** Upon completion and before final approval of the installation of a smoke-control system required by this Code, a smoke control performance test, complying with the testing procedures of C.B.C. Section 905.15, shall be used to verify the rate of air-flow and proper operation as specified in this division. Tests shall be conducted in the presence of both the Fire Department and the Department.

Prior to conducting the required smoke control performance test, a preliminary performance report shall be submitted to the Department by a person, holding a Certificate of Qualification as required by C.B.C. Section 905.15, verifying that the performance criteria of the Department have been met.

**91.8502.3.5. Additional Smoke Control Requirements.** Existing air conditioning and ventilation systems may be used as part of the smoke-control system. Existing return air plenum and approved fiberglass air ducts may be used as part of the smoke-control system. A smoke exhaust system shall be designed in a manner that will prevent smoke from going from one room to another, except when two or more rooms are connected together by means of a permanent unobstructed opening at least 20 square feet with a minimum three feet dimension, then the rooms shall be considered as one room for the purpose of designing the smoke-control system.

**91.8502.4. Fire-extinguishing System.** Fire sprinkler system, standpipe system, and water storage tank shall be provided as required for a new building of the same height, type of construction and occupancy, except that a high-rise building for which a building permit was issued prior to July 1, 1974 may comply with the fire safety standards of Section 91.8604 of this article.

The fire sprinkler system, if required, shall be installed in accordance with NFPA 13 as adopted by the Plumbing Code.

**91.8502.5. Fire Alarm System.** If a fire alarm system is required by C.B.C. Section 310.10 or 403.5 for a new building of the same type of construction and occupancy, or installed at the option of the owner, then the entire building shall have fire alarm systems that are in full compliance with C.B.C. Section 310.10. In a high-rise building, the fire alarm systems shall be supplied by a generator used as an emergency system in accordance with C.B.C. Section 403.8.3. For all other buildings, an alternate source of power may be used provided it is approved by both the Fire Department and the Department.

High-rise buildings shall be provided with a central control station (fire control room) that complies with all the requirements of C.B.C. Section 403.6 and Section 57.118.02 of the Fire Code including the minimum room dimensions of 10 feet by 10 feet.

**91.8502.6. Fire Pumps and Generator (Combustion Engines and Gas Turbines) Rooms.** In high-rise buildings, diesel or/and electric fire pumps shall be provided as required for a new building, except that a high-rise building for which a building permit was issued prior to July 1, 1974 may comply with Section 91.8604.6.5 of this article.

Fire pump and generator (combustion engines and gas turbines) rooms shall be separated with a minimum one-hour occupancy separation from adjoining rooms and from each other.

Combustion air and room ventilation air shall be required by the Building and Mechanical Codes, except that the room ventilation exhaust may be considered as environmental air.

In rooms containing diesel fire pumps and generators, a flue venting system shall be provided which complies with the requirements of Chapter 8 of the Mechanical Code, except that:

**A.** Clearance from the flue venting system to any combustible material may be reduced to 6 inches if the vent is wrapped with an approved insulation equivalent to two-hour fire-rated assembly for high-rise buildings and one-hour fire-rated assembly for all other types of buildings, and

**B.** The flue venting system may terminate at the exterior wall of the building provided the exhaust outlet is located at least: 10 feet above adjacent grade, 10 feet from the property line or center line of a public way, 10 feet from any opening into the building, and extending out at least 3 feet from the exterior wall of the building, or

**C.** The flue venting system may terminate under the roof overhang, provided the exhaust outlet is located lower than the overhang by a distance equal to the projection of the overhang.

**91.8502.7. Means of Egress.** The portion of the building converted to a Joint Living and Work Quarter shall be provided with means of egress as required by Division 10 of this article for a new building, except that the alternative requirements of Sections 91.8502.7.1 through 91.8502.7.5 may be used in lieu of the requirements in Division 10 of this article. An existing fire escape which is in good operating condition, may be

used as a second means of egress, provided the fire escape does not serve as an exit for an assembly occupancy.

**91.8502.7.1. Corridors and Hallways.** All public corridors and public hallways serving the occupants of the Joint Living and Work Quarter shall comply with all the requirements of C.B.C. Section 1007.6, except as follows:

**A.** Existing nonconforming fire-resistive walls and ceiling of a corridor constructed of wood lath and plaster which are in good condition may be acceptable as equivalent to the required one-hour fire-resistive construction.

**B.** Existing doors between the corridor and the Joint Living and Work Quarter that are part of the historic fabric of a Qualified Historical Building may be allowed to remain provided approved smoke gaskets and self-closing and latching devices to prevent smoke penetration are installed on the door, or the existing door shall be replaced with a door conforming to the requirements of C.B.C. Section 1004.3.4.3.2.1.

**C.** Glazing elements that are part of the historic fabric of a Qualified Historical Building and located in corridors, may be allowed to remain provided the fixed transoms, glass doors and other glazed openings are provided with smoke gaskets, and one layer of 5/8-inch type "X" drywall on the room side or other acceptable fire rated protection.

**91.8502.7.2. Dead-end Corridors.** An existing dead-end corridor which exceeds 20 feet in length and serves the occupants of a Joint Living and Work Quarter may remain, provided the dead-end corridor complies with all of the following:

**A.** The dead-end corridor shall be constructed as described above in Section 91.8502.7.1 for the full length of the dead-end corridor.

**B.** The dead-end corridor shall not exceed 40 feet in length.

**C.** A door with a magnetic hold-open device shall be placed across the corridor to create a vestibule located furthest from the open end of the dead-end corridor. The placement of the door shall be located not more than 20 feet from the open end of the dead-end corridor and the occupant load of the vestibule shall be less than 10 occupants.

**91.8502.7.3. Means of Egress Illumination and Exit Signs.** Means of egress illumination, exit signs, floor-level exit signs and exit path markings serving a Joint Living and Work Quarter shall comply with C.B.C. Sections 1003.2.8, 1003.2.9 and 1007.6.

**91.8502.7.4. Exit Stairway.** All exit stairways shall be enclosed and shall comply with all the requirements of C.B.C. Section 1005.3.3. Existing exit stairway enclosures may be allowed to pass through the first-floor elevator lobby, provided an approved fire-rated smoke-sealed door is placed in front of the elevator door on the first floor or there is another exit stairway enclosure leading directly to the public way.

**91.8502.7.5. Pressurization of Exit Stairway Enclosure.** If pressurization of exit stairway enclosure is required, then a mechanical ventilation system shall be provided. The mechanical ventilation system shall provide a uniform air velocity of not less than 50 feet per minute while maintaining a positive pressure (not exceeding 25 pounds force on an interior door) relative to the adjacent areas and discharging this air to the outside of the building.

The mechanical ventilation system shall be activated simultaneously with the fire sprinkler system or the smoke detector system. The mechanical ventilation system shall be supplied with primary and secondary sources of power. The primary power shall be provided by the power system supplied by the public utilities. The secondary power shall be from an approved standby source complying with the Electrical Code.

**91.8502.8. Accessibility (Disabled Access).** The conversion of an Existing Building or portion thereof to a Joint Living and Work Quarter(s) shall be considered residential occupancy for the purpose of applying accessibility (Disabled Access) requirements. Inasmuch as there are no public sales and no access to the public, any portion of a building that is converted to a Joint Living and Work Quarter(s) and any area of the building that serves the the Joint Living and Work Quarter(s) is not required to comply with disabled access requirements of C.B.C. Chapter 11A.

**91.8502.9. Interior Environment.** All habitable rooms in the Joint Living and Work Quarter shall be provided with natural light and ventilation by means of exterior glazed openings.

**91.8502.9.1. Light.** Windows or skylights with a total area not less than one fifteenth of the floor area of the room may be used to satisfy the natural light requirements. Kitchens may be provided with artificial light.

**91.8502.9.2. Ventilation.** Habitable rooms shall be provided with natural ventilation by means of openable exterior openings with an area of not less than one thirtieth of the floor area of the room. In lieu of required openable exterior openings, a mechanical ventilation system may be provided.

Public corridors or hallways shall be provided with an adequate ventilation system when all the habitable rooms in the Joint Living and Work Quarter on the floor

do not have operable exterior openings that comply with the requirements of C.B.C. Section 1203.3.

Adequate ventilation system for the public corridors or hallways shall mean either operable exterior window or permanent exterior opening having a minimum area of five square feet, or a mechanical ventilation system which complies with the requirements of Section 91.8502.14 and C.B.C. Section 1203.3.

**91.8502.9.3. Light and Ventilation Court.** A window may open into an existing court for light and ventilation, provided, the court is has adequate access at the bottom of the court for cleaning purposes. Every court more than two stories in height shall be provided with a horizontal air intake at the bottom of the court from the court to the exterior of the building, unless the court opens to a yard or public way.

The horizontal air intake shall not be less than 10 square feet in cross-sectional area and shall lead to the exterior of the building. The construction of the horizontal air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire-resistive construction. A mechanical ventilation system complying with the Mechanical Code may vent the court in lieu of the horizontal air intake.

**EXCEPTION:** When approved by the Superintendent of Building, an existing court may be deemed adequate for the purpose of providing light and ventilation based upon the area and height of the court.

**91.8502.10. Sound Transmission Insulation.** Existing construction may remain without complying with the sound transmission insulation requirements for any newly created Joint Living and Work Quarter. All new construction shall comply with sound transmission requirements of C.B.C. Section 1208A.

**91.8502.11. Energy Conservation.** All new HVAC and new lighting systems shall comply with the current energy conservation requirements contained in Part 6 of Title 24 of the California Code of Regulations (California Energy Code). An Existing Building with a Joint Living and Work Quarter need not comply with the Building Envelope requirements of the California Energy Code, if the Building Envelope is not altered in anyway due to compliance with other code requirements.

**91.8502.12. Structural Design Requirements (Seismic Provision).** The conversion of any portion of an Existing Building to a Joint Living and Work Quarter shall be considered a "substantial alteration" when applying exception 1 of Section 91.8203 of this article.

All Existing Buildings (including those specifically stated in Sections 91.8502.12.1 through 91.8502.12.4 of this division) shall be analyzed for 75 percent of the Design Basis Ground Motion, as defined in C.B.C. Section 1627 and as specified in C.B.C. Section 1629.1, but in no event shall there be a reduction in the capacity of the seismic force resisting system where such system provides a greater level of protection than the minimum requirements established by this division.

Performance-based engineering analysis and design procedures may be used to evaluate the existing structure and the design of strengthening elements when approved by the Superintendent of Building. All structural elements of the building shall be strengthened to meet the minimum design analysis as specified in Sections 91.8502.12.1 through 91.8502.12.4 of this division or new structural elements shall be added when required. All new structural elements shall meet current detailing requirements of C.B.C. Section 1633.

For other types of buildings not mentioned in this section, such as Steel Frame Buildings with Semi-Rigid Beam-Column Connections, Dual Systems with Steel Moment Frames and Concrete Shear Walls, or Steel Frame Buildings with Steel Bracing, shall comply with the standards developed by the Department.

**91.8502.12.1. Unreinforced Masonry Bearing Wall Buildings (URM).** Unreinforced masonry brick buildings shall comply with the requirements of Division 88 of this article, except that a moment-resisting frame shall not be used with an unreinforced masonry wall in a single line of resistance unless the moment-resisting frame is designed to carry 100 percent of the lateral forces designated in Division 88 of this article and the story drift ratio is limited to 0.0025.

The use of Appendix Chapter 1 of Part 10 of the California Code of Regulations Title 24 (California Code for Building Conservation) is permitted when approved by the Superintendent of Building.

**91.8502.12.2. Reinforced Concrete Buildings and Concrete Frame Buildings With and Without Masonry Infill Walls.** Reinforced concrete buildings or concrete frame buildings with or without masonry infill walls and that are within the scope of Section 91.9502 of this article, shall comply with all the provisions of Division 95 of this article.

**EXCEPTION:** When approved by the Superintendent of Building, the Guidelines for Seismic Retrofit of Existing Buildings may be permitted as an alternate standard to strengthen reinforced concrete buildings and concrete frame buildings with and without masonry infill walls.

**91.8502.12.3. Steel Frame Buildings with Masonry Infill Walls.** Steel frame buildings with masonry infill walls shall be made to comply with the standards as

developed by the Department and all the provisions of Division 95 of this article except for the following: Item A of Section 91.9509.6 of this article, Items 1 and 2 of Section 91.9509.7.2 of this article, and Sections 91.9509.9 and 91.9511.5.1 of this article.

**91.8502.12.4. Welded Steel Moment-Frame (WSMF) Buildings.** All buildings constructed prior to March 7, 1995 utilizing WSMF as their primary lateral force resisting system shall be evaluated by the standards developed by the Department.

All existing WSMF buildings, which have experienced greater than 0.25g-peak ground acceleration and which were constructed prior to March 7, 1995, shall be evaluated using procedures and repair criteria of FEMA 352, "Recommended Post-earthquake Evaluation and Repair Criteria for Welded Steel Moment-Frame Buildings." An engineering report shall be submitted to the Department. The engineering report shall either substantiate that the existing steel moment framed connections are in good condition, or recommend repair procedures for the welded steel moment-frame connections that are cracked or otherwise compromised.

**91.8502.13. Electrical Systems.** All electrical systems and installations for a Joint Living and Work Quarter and other alterations in adjoining areas shall be designed in accordance with the Electrical Code except that the general lighting in the Joint Living and Work Quarter shall be installed based on the unit load of 6.5 volt-amperes per square foot. The load calculation and wiring installation in a Joint Living and Work Quarter shall be as required for the residential occupancy.

**91.8502.14. Mechanical Systems.** All mechanical systems shall comply with the requirements of the Mechanical Code. The ventilation system for the corridor shall be designed independently of the ventilation system for the Joint Living and Work Quarter or any other adjoining rooms. When a corridor is divided by the placement of self-closing door(s), the ventilation system shall be designed for each portion of the corridor, except when the doors have magnetic hold-open devices, the adjoining corridors may be considered as one space for the purpose of designing the ventilation system. An existing heating and/or cooling system may be used in lieu of the ventilation system for the corridor, provided the heating and/or cooling system is independent from the heating and/or cooling system for the Joint Living and Work Quarter or from any other adjoining rooms.

**91.8502.15. Elevators.** Existing elevators need not comply with the requirements of Division 30 of this article, except when required to comply with the State Elevator Safety Order of Sub-chapter 6, of Chapter 4, Division 1 of Title 8 of the California Code of Regulations. Existing freight elevators shall not be used as passenger elevators.

**91.8502.16. Historical Building Provisions.** Qualified Historical Buildings may use the State Historical Building Code.

(100791)

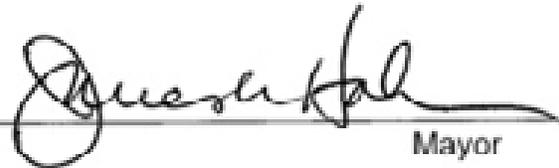
Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of MAY 20 2005.

FRANK T. MARTINEZ, City Clerk

By  Deputy

Approved MAY 23 2005

 Mayor

Approved as to Form and Legality

Rockard J. Delgadillo, City Attorney

By   
SHARON SIEDORF CARDENAS  
Assistant City Attorney

Date APR 27 2005

File No. CF 04-2601

DECLARATION OF POSTING ORDINANCE

I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 176673 - Amending Division 85 of Article 1 of Chapter IX of the Los Angeles Municipal Code regarding conversion of an existing commercial or industrial building, or portion thereof, to "joint living and work quarters."

- a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on May 20, 2005, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on May 27, 2005, I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) One copy on the bulletin board at the Main Street entrance to Los Angeles City Hall; 2) one copy on the bulletin board at the ground level Los Angeles Street entrance to the Los Angeles Police Department; and 3) one copy on the bulletin board at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on May 27, 2005 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 27th day of May 2005 at Los Angeles, California.

  
\_\_\_\_\_  
Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: July 6, 2005 Council File No. 04-2661

City of Los Angeles  
Adaptive  
Reuse  
Program

APPENDIX

- Creates new housing opportunities
- Revitalizes neighborhoods
- Preserves historic architecture
- Encourages community development
- Stimulates economic investment
- Facilitates mixed-use



# Incentives for Preserving Historic Buildings



Bullock-Wilshire Building,  
now the Southwestern Law School Library



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LOS ANGELES CONSERVANCY

523 West Sixth Street, Suite 826  
Los Angeles, California 90014  
Tel (213) 623-2489  
Fax (213) 623-3909

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# Incentives for Preserving Historic Buildings

## Introduction

### Saving historic buildings

Historic buildings help define the character of our communities by providing a tangible link with the past. Today, historic districts around the country are experiencing unprecedented revitalization as cities use their cultural monuments as anchors for redevelopment.

Sometimes, efforts to preserve and revitalize historic buildings run up against financial obstacles that create challenges in reusing these unique structures.

Fortunately, there are several incentives available which can make preservation more economically feasible. These incentives are available to all qualifying projects: unlike other tax credit programs, none of the historical incentives involve a risky competition or lottery process. This information

packet describes the financial and construction incentives which can make a significant difference in preserving buildings and can provide significant benefits to both property owners and the public at large.



The Los Angeles Central Library, once slated for demolition, remains one of the crown jewels of Downtown Los Angeles

### Incentives for Preservation

There are several types of incentives which can help preserve historic buildings. Financial incentives can provide income and property tax reductions. Other construction-based incentives offer additional flexibility in meeting building code requirements which can make potential projects significantly more affordable. Below is a brief summary of the major incentives currently available:

#### Financial Incentives

Rehabilitation Tax Credits provide a 10% or 20% tax credit on rehabilitation spending for old and historic buildings.

Conservation/Facade Easements offer an income tax deduction for the donation of a specified portion of a historic building.

The Mills Act provides property tax relief in exchange for the continued preservation of historic properties.

The Investment Tax Credit for Low-Income Housing provides a tax credit for the acquisition, construction or rehabilitation of low-income housing and can be applied to historic structures.

#### Construction Incentives

The City of Los Angeles Adaptive Reuse Provisions streamline the permitting process and provide flexibility in meeting zoning and building code requirements for adaptive reuse projects which convert underutilized commercial buildings to more productive uses such as live/work and residential units.

The California State Historical Building Code provides flexibility in meeting code requirements in historic buildings.



## 20% Rehabilitation Tax Credit

### Description

The Federal Historic Preservation Tax Incentive is a program administered by the National Park Service (NPS) that rewards private investment in rehabilitating income-producing historic properties, such as offices, rental housing and retail. The incentive provides a 20% tax credit for all qualifying hard and soft cost expenditures during rehabilitation.

### Benefits

**Tax Credit:** The incentive offers a 20% tax credit for the rehabilitation of certified historic structures. The credit equals 20% of the amount spent on qualifying rehabilitation expenditures and is claimed in the year in which the rehabilitated building is put into service.

### Restrictions and Eligibility

**Property Types Allowed:** Commercial, industrial, agricultural and rental residential properties. Buildings must be depreciable and used in a trade or business to produce income. Owners or long term lessees of at least 27.5 years for residential property and 39 years for nonresidential property may apply.

**Property Types Not Allowed:** Properties used exclusively as an owner's private residence. However, Congress is currently considering legislation that would create a similar 20% tax credit for the rehabilitation of private homes.

**Certified Historic Structure:** To be eligible, a building must be listed in the National Register of Historic Places or be a contributing structure in a National Register Historic District. Many more structures are eligible for the Register, and property owners may apply for National Register designation as part of the tax credit process. The Los Angeles Conservancy can assist a property owner in determining the eligibility of potential properties. In Los Angeles, National Register districts include the Broadway Historic Theatre District, the Spring Street Financial District and the Hollywood Boulevard Commercial District.

**Hard Costs:** Rehabilitation expenditures must be capital in nature and depreciable as real property. Routine maintenance costs such as painting and repairs are not eligible unless they are part of an overall rehabilitation. Acquisition and building enlargement costs do not qualify.

**Soft Costs:** Qualified expenditures may also include soft costs such as architectural and engineering fees, site survey fees, legal expenses, development fees and other construction-related costs, if such costs are added to the basis of the property and determined to be reasonable and related to the services performed.

**Holding Period:** Building owners must hold the structure for five years following the completion of the rehabilitation or pay back the credit. Any alterations during the five years must be reviewed by the NPS.

**Maintenance and Alterations:** Building owners must not damage, destroy or cover materials or features, interior or exterior, which help define the building's historic character.

**Tax-Exempt Restrictions:** Expenditures allocable to that portion of a building that is, or is reasonably expected to be, "tax-exempt use property" do not qualify. Moreover, the property becomes ineligible if tax-exempt entities occupy more than 35% of the building.

**Scope:** During a 24 month period, the rehabilitation expenditures must exceed \$5,000 or the adjusted basis of the building, whichever is greater. For phased projects with complete sets of architectural drawings and specifications for each phase, the window of eligibility is 60 months. The adjusted basis of the building equals the purchase price plus capital improvements less total depreciation and does not include land value. Also, all new work is expected to meet the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties.



## 20% Rehabilitation Tax Credit (continued)

### Administration

Application: Building owners must complete a three-part application in order to receive the 20% Rehabilitation Tax Credit. Part 1 verifies that the building is listed in or eligible for the National Register. In Part 2, applicants submit a description of the proposed work for approval by the NPS. In Part 3, the completed project is compared to Part 2 and evaluated for compliance with the Standards for Rehabilitation.

Administration: The incentive is jointly administered by the National Park Service in partnership with the State Historic Preservation Officer (SHPO) who acts on behalf of the U.S. Department of the Interior. The Internal Revenue Service (IRS) also participates on behalf of the Department of the Treasury.

- The application is first reviewed by the SHPO and is then forwarded to the NPS for review.
- The NPS encourages property owners to apply prior to the start of construction.

Fees: Processing fees which cover the review of the application range from \$500 to \$2,500 depending on the cost of rehabilitation.

Code References: Tax Reform Act of 1986 (PL 99-514; Internal Revenue Code Section 47)

### A General Overview of Tax Credits

A tax credit lowers the amount of tax owed, while a deduction lowers the amount of income which is subject to taxation. In general, every dollar of tax credit reduces the amount of tax owed by one dollar. Every dollar of tax deduction reduces the amount of tax owed by a fraction of a dollar equal to the taxpayer's tax rate.

### EXAMPLE OF A 20% REHABILITATION TAX CREDIT

<u>WITH 20% TAX CREDIT</u>	<u>WITHOUT 20% TAX CREDIT</u>
Rehabilitation Expenditures.....\$1,000,000 Qualifying hard and soft costs	Taxable Income.....\$1,600,000
Taxable Income.....\$1,600,000	Tax Paid..... <u>\$640,000</u> (40% tax rate x \$1,600,000)
Tax Calculation.....\$640,000 (40% tax rate x \$1,600,000)	<u>TAX SAVINGS</u>
20% Rehabilitation Tax Credit.....- <u>\$200,000</u> (20% credit x \$1,000,000)	Tax without 20% Tax Credit.....\$640,000
Tax Paid..... <u>\$440,000</u>	Tax with 20% Tax Credit.....- <u>\$440,000</u>
	Tax Savings..... <u>\$200,000</u>

### Contacts

State Historic Preservation Officer  
Office of Historic Preservation  
Department of Parks and Recreation  
P.O. Box 942896  
Sacramento, CA 94296  
(916) 653-6624

Preservation Tax Incentives  
Technical Preservation Services  
National Park Service  
1849 C Street, NW  
Washington, D.C. 20240  
202-513-7270  
e-mail: nps\_hps-info@nps.gov



## 10% Rehabilitation Tax Credit

### Description

A 10% tax credit rewards private investment in rehabilitating non-residential buildings built before 1936. In contrast to the 20% credit, the 10% Rehabilitation Tax Credit applies to properties that are not listed in or eligible for the National Register of Historic Places.

### Benefits

Tax Credit: The incentive provides a 10% tax credit on the amount spent on qualifying hard and soft cost rehabilitation expenditures of non-historic, non-residential buildings built before 1936.

### Restrictions and Eligibility

Property Types Allowed: Non-residential buildings, including hotels

Property Types Not Allowed: Residential buildings, including rental housing and private homes

Hard Costs: Rehabilitation expenditures must be capital in nature and depreciable as real property. Routine maintenance costs such as painting and repairs are not eligible unless they are part of an overall rehabilitation. Acquisition and building enlargement costs do not qualify.

Soft Costs: Qualified expenditures may also include soft costs such as architectural and engineering fees, site survey fees, legal expenses, development fees and other construction-related costs, if such costs are added to the basis of the property and determined to be reasonable and related to the services performed.

Tax-Exempt Restrictions: Expenditures allocable to that portion of a building that is, or is reasonably expected to be, "tax-exempt use property" do not qualify. Moreover, the property becomes ineligible if tax-exempt entities occupy more than 35% of the building.

Scope: Projects must pass physical tests for retaining the exterior walls and interior structural framework. Fifty percent of the existing exterior walls must remain in place. Seventy five percent of the existing interior walls must remain in place. During a 24 month period, the rehabilitation expenditures must exceed \$5,000 or the adjusted basis of the building, whichever is greater. For phased projects with complete sets of architectural drawings and specifications for each phase, the window of eligibility is 60 months. The adjusted basis of the building equals the purchase price plus capital improvements less total depreciation and does not include land value. Also, all new work is expected to meet the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties.

Additional Restrictions: The 10% and 20% tax credits are mutually exclusive. Owners can receive one of the credits, but not both. In addition, owners of historic buildings that are denied certification for the 20% credit may not claim the 10% credit. The 10% Rehabilitation Tax Credit only applies to non-historic, non-residential buildings built before 1936. The type of building, not the owner, determines which credit is applicable.

### Administration

Application: There is no formal review process for the rehabilitation of non-historic buildings. The tax credit must be claimed on IRS form 3468 for the tax year in which the rehabilitated building is placed in service.

Code References: Tax Reform Act of 1986 (PL 99-514; Internal Revenue Code Section 47)



## Conservation/Facade Easements Charitable Contributions for Historic Preservation Purposes

### Description

The owner of a historic property can earn a significant one-time income tax deduction by donating a conservation easement to a qualifying preservation organization such as the Los Angeles Conservancy. An easement is a legal agreement between a property owner and a conservation group which restricts the property's future development rights by allowing the preservation group to review in perpetuity changes to the property. With a facade easement, the area covered by the easement is typically the building's exterior envelope. Other conservation easements may specify historically significant interior spaces or the landscape on which the building sits.

### Benefits

**Protection:** A conservation easement protects a building's valuable historic and architectural qualities by restricting the right to alter its appearance, even after the property changes ownership.

**Income Tax Deduction:** Donors can deduct the value of the easement from their income taxes in the year of the grant. The easement's value is determined by establishing the fair market value of the property without the easement and then subtracting the value of the property with the easement restrictions based on limitations of future development, including a building's height, density and use. The difference between the two amounts is the value of the easement. The Conservancy can provide applicants with a list of qualified appraisers with experience in conservation easement assessments in order to value the easement.

**Relief Priority:** In the event of a natural disaster, holders of conservation easements are often given priority by relief organizations like FEMA to receive government funding for any necessary repair work.

### Eligibility

**Property Type:** The building need not be depreciable or income producing. Private residences are eligible.

**Certified Historic Structure:** The building must be a certified historic structure listed in the National Register of Historic Places or part of a National Register district. Many more structures are eligible for the Register. The Los Angeles Conservancy can assist a property owner in determining the eligibility of potential properties.

**Scope and Access:** The easement can apply to a portion of a building, including the facade, the interior or the land on which a building is located. If the interior is included in the easement, it must be accessible to the public. For private residences, viewing facades from public streets qualifies as accessible.

### Restrictions

**Mortgages:** If there is a mortgage on the property, the lender must sign off on the easement.

**Preservation:** Demolition, alterations and modifications to features specified in the easement must be approved by the preservation organization and are reviewed in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

**Amount:** The amount of the charitable contribution cannot exceed 50% of the taxpayer's adjusted gross income in the year of donation. However, the amount by which the contribution exceeds 50% can be carried over up to five years. An accountant or tax attorney should be consulted to determine the tax benefits for a specific donor.

**Use:** In practical terms, the easement should not significantly restrict the building's use. For facade easements, exterior changes require consultation with the preservation organization. Unless the interior is specifically included in the easement, interior alterations can be made at the owner's discretion.

**Duration:** The easement is recorded on the title and runs in perpetuity with the deed to the property, regardless of the owner.



### Conservation/Facade Easements (continued)

#### Administration

Enforcement: The charitable organization enforces the easement through periodic inspections.

Natural Disasters: The easement can also contain certain provisions to govern the restoration or demolition of the building in the event of a natural disaster. These can include requiring the owner to hold casualty loss insurance coverage or apply the easement tax benefits to the casualty loss restoration. Treasury Regulation Section 1.170A-14 (g) 6 establishes threshold conditions under which the easement can be lifted or modified, subject to judicial approval. In the event of a sale following the extinguishment of the easement, the donee organization would receive a proportionate amount of the sale proceeds.

#### Code References:

- Tax Reform Act of 1986; Taxpayer Relief Act of 1997
- Income Tax Deduction: Internal Revenue Code Section 170 (h)
- Estate Tax Deduction: Internal Revenue Code Section 2031, 2055 (f)

#### Costs

Application: A filing fee is paid to the Los Angeles Conservancy - \$250 for single-family residential properties, \$500 for multi-family or residential properties.

Appraisal: Appraisal fees will differ depending on the size of the property and the complexity of the easement donation.

Filing Fee: Easements must be filed with the Los Angeles County Registrar Recorder in Norwalk. The filing fee is \$9 for the first page and \$3 for each additional page.

Documentation: In some cases, professional photo documentation of the areas covered by the easement may be required. These costs will vary according to the number and type of photographs required.

Easement Maintenance: The Los Angeles Conservancy charges a one-time fee equal to 5% of the value of the easement donation to cover the cost of maintaining the easement in perpetuity, which includes administration and inspections.



The El Capitan Theatre on Hollywood Boulevard established its facade easement in 1985.

#### EXAMPLE OF A TAX DEDUCTION FROM A CONSERVATION EASEMENT

<p><u>VALUE OF BUILDING WITH EASEMENT</u></p> <p>Fair Market Value of Existing Property.....\$15,000,000</p> <ul style="list-style-type: none"> <li>- Five story office building</li> <li>- 100,000 square feet</li> <li>- Concrete construction</li> <li>- Historically significant facade</li> </ul> <p><u>BUILDING VALUE WITHOUT EASEMENT</u></p> <p><u>Case 1 - Income Method</u></p> <p>Calculate value of land with entitlement to develop property to its highest and best use without easement restriction and within existing zoning requirements</p> <p>Value of Unencumbered Property .....\$17,000,000</p> <p>Value of Easement.....<u>\$2,000,000</u> (\$17,000,000 - \$15,000,000)</p>	<p><u>Case 2 - Comparable Sales Method</u></p> <p>Compare sale prices of four easement-encumbered properties from three to seven years after date of valuation to sale prices of four comparable unencumbered properties</p> <p>Diminution in value of easement-encumbered properties compared to non-encumbered properties</p> <table> <tr><td>Property 1</td><td>12.5%</td></tr> <tr><td>Property 2</td><td>9.0%</td></tr> <tr><td>Property 3</td><td>8.5%</td></tr> <tr><td>Average diminution in value .....</td><td>10.0%</td></tr> </table> <p>Value of Easement .....<u>\$1,500,000</u> (\$15,000,000 x 10.0%)</p> <p><u>TAX SAVINGS</u> (using Case 2)</p> <table> <tr><td>Value of Conservation Easement ..</td><td>\$1,500,000</td></tr> <tr><td>Tax Rate</td><td>x 40%</td></tr> <tr><td>Value of Tax Deduction .....</td><td><u>\$600,000</u></td></tr> </table>	Property 1	12.5%	Property 2	9.0%	Property 3	8.5%	Average diminution in value .....	10.0%	Value of Conservation Easement ..	\$1,500,000	Tax Rate	x 40%	Value of Tax Deduction .....	<u>\$600,000</u>
Property 1	12.5%														
Property 2	9.0%														
Property 3	8.5%														
Average diminution in value .....	10.0%														
Value of Conservation Easement ..	\$1,500,000														
Tax Rate	x 40%														
Value of Tax Deduction .....	<u>\$600,000</u>														



## Conservation/Facade Easements (continued)

### Conservation/Facade Easement Donation Process

#### Eligibility

To claim a charitable deduction for an easement donation, a property must be individually listed in the National Register of Historic Places, or be a contributing structure in a National Register Historic District. Unless the property is individually listed in the National Register, the owner must complete Part I of the "Historic Preservation Certification Application," available from and submitted to the State Historic Preservation Office in the state where the property is located. If the property is in the process of being nominated to the National Register, the owner may still treat the donation of the easement as a charitable contribution, provided the property becomes listed in the National Register by the time federal taxes are due (plus six months of extensions) in the year following the donation.

#### Documentation

When the Los Angeles Conservancy accepts an easement, the Conservancy's attorney prepares a draft of the easement document for review by the owner, his/her attorney, and accountant. This includes the legal description of the property, the restoration and maintenance requirements, and the photographic documentation of existing conditions, including graphic guidelines for any future restoration. The owner and the Conservancy review this draft and make any changes that are mutually agreeable.



The facade easement for the renovated Wilma Theatre helped ensure the integrity of the building's historic Art Deco exterior.

#### Appraisal and Approvals

After agreement is reached on the terms of the easement, the owner must obtain an appraisal of the value of the easement. This appraisal process includes estimating the cost of compliance with the restoration and maintenance requirements of the easement. For this reason, the appraisal cannot be completed until the easement is drafted.

#### Settlement

In advance of the settlement of the easement contract between the owner and the Los Angeles Conservancy, the owner must submit to the Conservancy the consent of the mortgage holder and a current insurance certificate. A fee to the Conservancy pays for the completion of the drafting of the easement document and enables the Conservancy to enforce and administer the easement into the future. Following settlement, the Conservancy records the easement and forwards to the owner the recording information.

#### Timing

The amount of time required to process easements can take from three weeks to three months, depending on the complexity of the property and the extent of the negotiations required for either the terms and conditions of the easement or the restoration and maintenance specifications. Other factors affecting the easement preparation process are the length of time the owner and attorney take to review the document and the time the mortgage holder takes to process its consent to the easement. It is best to begin the easement preparation process early in the calendar year in order to ensure that sufficient time is available to process the documents by year-end.



## Mills Act

### Description

The Mills Act is a state law that allows cities to enter into contracts with owners of historic properties to provide property tax relief in exchange for the continued preservation of the historic property. For properties where land represents a large portion of the market value such as in high density commercial and residential districts, the Mills Act adjusts the property tax to reflect the actual use of the site, therefore offering significant tax reductions of approximately 50% for newly improved or recently purchased properties.

### Eligibility and Restrictions for the City of Los Angeles

**Property Types:** Owner-occupied single family residences with a property tax assessment of \$500,000 or less are eligible. Income producing commercial properties (including apartment and industrial) valued at \$1,500,000 or less are also eligible. The Cultural Heritage Commission may grant exemptions to these limits, which has occurred more frequently in recent years as property values have soared. Properties located in the Downtown Historic Core or Hollywood Redevelopment District are exempt from the property value limits.

**Certified Historic Structure:** To be eligible, a building must be listed in the National Register of Historic Places or be a contributing structure in a National Register Historic District. In addition, owners of City Historic-Cultural Monuments and buildings contributing to a City Historic Preservation Overlay Zone are eligible. All new work is expected to meet the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties.

**Contract Period:** The minimum contract period is ten years and is renewed annually. The contract is executed between the local government and the property owner and is binding for all successive owners during the ten-year period. The property owner must allow for the periodic inspection of the interior and exterior to verify compliance.

### Administration

**Origin:** The enabling legislation was passed in 1976 and was subsequently adopted by local cities. Los Angeles, Pasadena and San Diego have all adopted the act.

**Administration:** The Los Angeles Department of City Planning, Office of Historic Resources handles Mills Act administration.

**Fees:** Nonrefundable application fee of \$268.

### Valuation

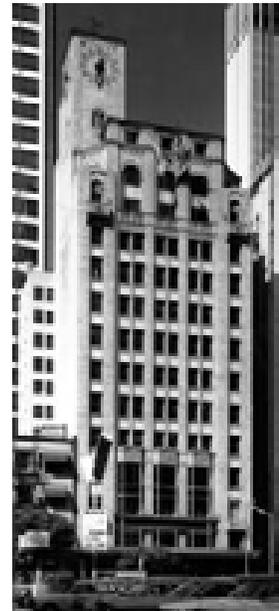
- Property is valued according to the income method in the Revenue and Tax Code Section 439.21. Income or projected rental income less certain expenses is divided by a capitalization rate to determine the assessed value of the property. The Mills Act assessed valuation is recalculated each year to reflect changes in income, expenses, interest rate and amortization.
- If the property is owner occupied, the income is based on comparable rents for similar property in the area, or if insufficient rental information is available, the income that it could reasonably be expected to produce under prudent management.

**Code Reference:** California Government Code Section 50280 and Revenue and Tax Code Section 439.1

### Contacts

Historical Properties Contracts Manager  
Department of City Planning, Office of Historic Resources  
200 N Spring Street, Room 667  
Los Angeles California 90012  
(213) 978-1200

Dennis Weber  
State of California  
Office of Historic Preservation  
PO Box 942896  
Sacramento CA 94296-0001  
(916) 653-5789



Oviatt Building, beneficiary of Mills Act tax savings



Mills Act (continued)

EXAMPLE OF COMMERCIAL  
PROPERTY TAX SAVINGS FROM THE MILLS ACT

<u>WITH MILLS ACT</u>	<u>WITHOUT MILLS ACT</u>
Gross Income .....\$2,000,000 (\$20/square foot x 100,000 square feet)	Property Assessed Valuation .....\$15,000,000 (\$150/sf x 100,000 sf)
Less Expenses .....- \$400,000 (annual insurance, repairs, utilities)	Tax Assessment .....\$150,000 (\$15,000,000 x 1% property tax rate)
Net Income .....\$1,600,000	
Capitalization Rate	
Mortgage Rate           7.75%	
Risk Component        2.00%	
Tax Rate                1.00%	
Amortization Rate     5.00%	
Total ..... <u>15.75%</u>	<u>TAX SAVINGS</u>
Property Adjusted Valuation .....\$10,160,000 (\$1,600,000 / 15.75%)	Assessment without Mills Act           \$150,000
Tax Assessment .....\$101,600 (\$10,160,000 x 1% property tax rate)	Assessment with Mills Act               - <u>\$101,600</u>
	Annual Property Tax Savings ..... <u>\$48,400</u>

EXAMPLE OF RESIDENTIAL  
PROPERTY TAX SAVINGS FROM THE MILLS ACT

<u>WITH MILLS ACT</u>	<u>WITHOUT MILLS ACT</u>
Gross Income .....\$14,400 (\$1,200/month x 12 months based on comparable rental rates)	Property Assessed Valuation .....\$250,000
Less Expenses .....- \$2,000 (annual insurance, repairs, utilities)	Tax Assessment .....\$2,500 (\$250,000 x 1% property tax rate)
Net Income .....\$12,400	
Capitalization Rate	
Mortgage Rate           7.75%	
Risk Component        4.00%	
Tax Rate                1.00%	
Amortization Rate     5.00%	
Total ..... <u>17.75%</u>	<u>TAX SAVINGS</u>
Property Adjusted Valuation .....\$68,888 (\$12,400 / 17.75%)	Assessment without Mills Act           \$2,500
Tax Assessment .....\$688 (\$68,888 x 1% property tax rate)	Assessment with Mills Act               - <u>\$688</u>
	Annual Property Tax Savings ..... <u>\$1,812</u>



## Investment Tax Credit for Low-Income Housing

### Description

The Investment Tax Credit for Low-Income Housing rewards property owners for providing low-income housing to the community. While not explicitly a preservation incentive, the credit can be used in conjunction with the Federal Historic Preservation Tax Incentive to provide additional tax savings in order to make an affordable housing project feasible. Most credits are sold to corporate or individual investors through public or private syndication.

### Benefits

- The credit is 4% per year for 10 years for each unit involving the 20% rehabilitation tax credit, Federal subsidies or tax-exempt bonds.
- The tax credit enables low-income housing sponsors and developers to raise project equity through the sale of tax benefits to investors. Investors benefit from the tax credit by purchasing an ownership interest in one or more tax credit housing projects. In turn, investors take a dollar-for-dollar credit against their tax liability over a ten-year period. The partnership contributes equity to the project which typically finances 30-60% of the capital costs of project construction.

### Restrictions and Eligibility

**Property Types:** Only rental housing projects are eligible for tax credits. Credits can be allocated to new construction projects or projects undergoing rehabilitation.

**Project Costs:** Tax credits are allocated based on the cost basis of the project, including hard and soft development costs. Land costs are not included in determining the amount of credits. The funding allocated by the Investment Tax Credit for Low-Income Housing covers a project's financing shortfall.

**Threshold Criteria:** The HUD 221 (3) (d) Cost Limitations regulations set threshold criteria for potential projects. Units must meet certain standards on the cost per unit and the number of required low-income units. Initial incomes of households in tax credit units cannot exceed 60% of the area median income, adjusted for household size. There are also minimum financing commitments and restrictions on the total number of units.

### Administration

**Administration:** The credit program is administered by the California Tax Credit Allocation Committee (TCAC), chaired by the State Treasurer and governed by the U.S. Treasury Department's Internal Revenue Service.

**Application Process:** TCAC is currently revising its selection procedures for the Investment Tax Credit. Applicants must now complete a package which is scored and ranked. TCAC then performs a feasibility analysis on complete and eligible applications to determine the level of funding. The review process takes about 75 days.

### Code References

- Tax Reform Act of 1986; Internal Revenue Code Section 42
- California Code of Regulations, Title 4, Division 17, Sections 10300 - 10337

### Contacts

Executive Director  
California Tax Credit Allocation Committee  
915 Capitol Mall, Room 485  
Sacramento, CA 94209  
(916) 654-6340



## City of Los Angeles Adaptive Reuse Ordinance

### Description

The Adaptive Reuse Ordinance, approved by the City Council in 1999 and revised in 2002, aims to revitalize Los Angeles' architectural and cultural resources and encourage the development of live/work communities. Adaptive reuse projects convert underutilized buildings to more productive uses such as live/work units, rental dwelling units, condominiums, and hotels. The provisions streamline the application process and provide significantly more flexibility in meeting building code and zoning requirements.

### Benefits

#### Land Use Ordinance (City Planning)

- Discretionary review by the Planning Department is not required.
- Many non-compliant site conditions (including building height, parking, floor area and setbacks) are permitted without requiring a variance. Residential density requirements are also waived.
- New mezzanines less than one-third the floor area of the room below are not counted as floor area.

#### Construction Guidelines (Building and Safety)

- The conversion of existing buildings to privately-owned residential use will not trigger disabled access requirements in the residential use area. Disabled access is still required in areas used by employees and that are open to the general public.
- The construction guidelines provide some flexibility in meeting structural and fire and life safety compliance requirements. Please contact the Department of Building and Safety or Fire Department for specific potential benefits.

### Eligibility and Restrictions

**Location and Age:** Buildings must be located in one of the following areas: Central City, Figueroa Corridor Economic Development Strategy Area, Chinatown, Lincoln Heights, Hollywood Community Redevelopment Project Area, Central Avenue south of the Santa Monica Freeway and north of Vernon Ave., and portions of the Wilshire Center/Koreatown Community redevelopment area. Buildings located in commercial and multi-residential (R5) zones whose original building permits were issued before July 1, 1974 are eligible to receive the benefits listed under the Adaptive Reuse Ordinance by right.

**Compliance:** All newly constructed floor area, except for mezzanines, must comply with the city zoning code.

**Size:** Dwelling units and live/work units must average 750 square feet in floor area with no unit less than 450 square feet.

### Administration

Three departments of the City of Los Angeles will guide, assist and facilitate the adaptive reuse implementation through a project facilitating team. The team will help projects through the design, permitting and construction processes.

- Office of the Mayor
- Department of Building and Safety
- Fire Department

### Contacts

Hamid Behdad, P.E.

Mayor's Office of Economic Development

City of Los Angeles

200 N Spring Street, 13th Floor

Los Angeles, CA 90012

(213) 978-0783



## California Historical Building Code

### Description

Preservation and rehabilitation are frequently made more difficult by unnecessarily rigid interpretation of the building code. The intent of the California Historical Building Code (CHBC), formerly the State Historical Building Code, is to protect California's architectural heritage by recognizing the unique construction problems inherent in historic environments and offering an alternative code to deal with these problems. The CHBC provides alternative building regulations and standards for the rehabilitation, preservation, restoration, relocation or change of occupancy of designated historic buildings. The CHBC aims to preserve the original or restored architectural elements, encourage cost-effective conservation and provide safety for building occupants.

### Benefits

The CHBC gives property owners flexibility to find economical methods to allow for the restoration of historic features while still retaining the structures' historic integrity. Many projects that would otherwise be financially impossible under today's building codes are made feasible by the CHBC, whose regulations are performance-oriented rather than prescriptive.

### Eligibility and Restrictions

**Certified historic structure:** To be eligible, a building must be listed in the National Register of Historic Places or contribute to a National Register Historic District. In addition, owners of City Historic-Cultural Monuments and buildings contributing to a City Historic Preservation Overlay Zone are eligible. All new work is expected to meet the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties.

**New Construction:** New construction must conform to the regular code, while elements within the historic portion are afforded the latitude of appropriate alternatives.

**Substandard Buildings:** The CHBC is not a license to maintain a substandard building. Under Section 8-109, all qualifying buildings must comply with minimum standards outlined by the code.

### Administration

**Origin:** The CHBC was passed in 1976 and was the first of its kind in the nation. The CHBC supercedes all other California building codes.

**Enforcement:** The State Historic Building Safety Board (SHBSB) within the Office of the State Architect oversees the CHBC and its appeals. However, local enforcing agencies such as the Los Angeles Department of Building and Safety are also required to use the code. Alternative standards are handled on a case-by-case basis depending on the building and its use.

### Code References

- California State Health and Safety Code Part 2.7 - California Historical Building Code, Sections 18950 - 18961
- California Administrative Code - State Building Standards, Title 24, Part 8

### Contacts

Executive Director  
State Historical Building Safety Board  
c/o DSA Headquarters Office  
1102 Q Street, Suite 5100  
Sacramento, CA 95814  
(916) 445-7627

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